United Nations A/C.6/72/SR.6

General Assembly
Seventy-second session

Official Records

Distr.: General
31 October 2017

Original: English

Sixth Committee

Summary record of the 6th meeting
Held at Headquarters, New York, on Thursday, 5 October 2017, at 10 a.m.

Chair:	Mr. Gafoor	(Singapore)
later:	Ms. McDougall	(Australia)

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The meeting was called to order at 10.10 a.m.

Agenda item 84: The rule of law at the national and international levels (*continued*) (A/72/86 and A/72/268)

1. **Mr. Tang** (Singapore) said that his country had always been a firm supporter of the rule of law at the national and international levels. With regard to the subtopic for discussion at the current session (Ways and means to further disseminate international law to strengthen the rule of law), his delegation acknowledged the important role played by the Office of Legal Affairs. In that connection, the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law provided a key platform by which international law was disseminated. Singapore participated in that important work as a member of the Programme's Advisory Committee.

2. The Singapore Cooperation Programme, the country's primary platform for delivering technical assistance, had been conducting capacity-building programmes on international law since 2006. A dedicated "Law and Judiciary" cluster had been established under the Programme's regular calendar programmes to focus on such issues. Plans were under way to launch another international law training programme in 2018, further details of which would be announced at a side event on the rule of law, to be organized by Singapore during International Law Week. Singapore had worked closely with academia and think tanks in running its training programmes.

3. The United Nations Audiovisual Library of International Law provided an excellent platform for disseminating and receiving information on international law rapidly and cost-effectively via the Internet. Singapore supported the Library's continuation and further development.

4. His delegation reaffirmed the importance of registration and publication of treaties. On 25 September 2017, in accordance with the obligation of Member States under Article 102 of the Charter of the United Nations to promote public awareness of international agreements entered into between Members States, Singapore and Indonesia had jointly registered the Treaty between the Republic of Singapore and the Republic of Indonesia relating to the delimitation of the territorial seas of the two countries in the eastern part of the Strait of Singapore.

5. His Government supported the Secretary-General's efforts to make United Nations rule of law assistance more effective and coherent. As noted in the Secretary-General's report (A/72/268), important aspects of the rule of law cut across all 17 Sustainable Development Goals under the 2030 Agenda for Sustainable Development. There was therefore a need to ensure coherence and avoid duplication even as the Organization sought to do more to support the implementation of the rule of law elements of that universal agenda. The rule of law must also be approached and applied with due regard for local actors and practical realities, in order to achieve good governance and promote the welfare of the people. Singapore welcomed the efforts of the Secretary-General and his team to consult widely and would be happy to support such efforts using platforms such as the Forum of Small States.

6. Singapore agreed with the Secretary-General's observation regarding the peaceful settlement of international disputes through adjudication at the international level. In that connection, it was pleased that the Permanent Court of Arbitration would be establishing an office in Singapore for hearings held in Singapore and Asia.

7. His delegation agreed with the observation in the Secretary-General's report that partnerships could play an important role in advancing cooperation and improving results. Transnational challenges called for transnational solutions. Regional organizations provided an excellent platform for international partnership and cooperation; they were an important part of an effective multilateral rules-based system, helped to reinforce the principles of the Charter and underpin international law at the regional level, and contributed to building confidence and encouraging cooperation. One such regional organization, the Association of Southeast Asian Nations (ASEAN), had worked since its inception to build an inclusive, rules-based community. Such models of regional cooperation were integral to supporting and strengthening the rule of law at both the regional and the international levels.

8. Small States like Singapore, which made up more than half of the States Members of the United Nations, depended on a rules-based multilateral system for their survival and success. They had made significant contributions to the international community and could play an even greater role, provided they continued to work together and stayed united in their strong support for the United Nations and the multilateral rules-based system.

9. **Mr. Meza-Cuadra** (Peru) said that his Government acknowledged the decisive contribution of the United Nations to the promotion of a system grounded in the rule of law, the basis for peaceful and equitable relations between States. Peru had

unswervingly promoted multilateralism, the rule of law and the peaceful settlement of disputes. Human rights, the rule of law and democracy formed part of the fundamental values and principles that ensured lasting solutions to differences.

10. Peru contributed to the codification of a multilateral legal framework through its participation in multilateral treaties. It had recently signed the Treaty on the Prohibition of Nuclear Weapons and ratified the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. It had sponsored General Assembly resolution 71/248, establishing the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011, and Security Council resolution 2379 (2017) on accountability for crimes in Iraq. That reflected the priority which his Government attached to exhaustively documenting alleged atrocities.

11. At the national level, his Government had introduced a new policy to combat corruption, in line with Sustainable Development Goal 16. Peru would host the Eighth Summit of the Americas, on the theme "Democratic Governance against Corruption", in April 2018 in Lima.

12. With regard to the subtopic for discussion at the current session (Ways and means to further disseminate international law to strengthen the rule of law), Peru supported the various activities sponsored by the United Nations to disseminate the rule of law. It was committed to cooperating with the United Nations Audiovisual Library of International Law and the continuing dissemination in Peru of the United Nations-Nippon Foundation of Japan Fellowship Programme for the law of the sea.

13. Peru underscored its commitment to pluralist democracy based on the rule of law and respect for human rights, in line with the further development of the linkages of the rule of law and the three pillars of the United Nations: peace and security, human rights and development.

14. **Mr. Umasankar** (India) said that laws based on the principles of justice and fairness, if enforced, reduced conflict and provided for predictability of interactions at both national and international levels. Although the rule of law already governed States' actions to a large measure in many areas, including trade, investment and intellectual property; transport and communications; maritime and aviation laws; telecommunications; use of the global commons, such as seas and oceans; environment and climate change; outer space; and even normative frameworks on human rights, its enforcement at the international level still posed difficulties.

15. Owing to narrow geopolitical interests, some States were preventing progress on a draft comprehensive convention on international terrorism. The issue continued to be inadequately addressed.

16. In India, the world's largest democracy based on the rule of law, the independence of the judiciary, legislature and executive, together with a free media and civil society with strong traditions of electoral democracy, were the foundation for the rule of law. India had engaged actively in international efforts to develop norms, standards and laws governing global interactions across various sectors, and it believed in the peaceful settlement of international disputes in accordance with the law.

17. India was working to bring its domestic legislation into line with its international obligations. Over the past year, it had ratified the Paris Agreement under the United Nations Framework Convention on Climate Change and had acceded to the Doha Amendment to the Kyoto Protocol and to the Customs Convention on the International Transport of Goods under cover of TIR Carnets. Over the same period, it had enacted nearly 20 new laws, including on mental health, the rights of persons with disabilities, goods and services tax, national waterways and hijacking.

18. India had contributed to the Residual Special Court for Sierra Leone to enable the Court to carry out its functions effectively. It supported the efforts to address sexual exploitation and abuse in United Nations operations and had helped to strengthen the Organization's capacities for tackling the problem and assisting the victims. It had also partnered with fellow developing countries in capacity-building efforts in the areas of electoral practices, drafting of legislation and law enforcement.

19. Effective multilateralism and the rule of law at the international level required that global governance structures should reflect contemporary realities. The current United Nations structures had been designed by a handful of States for a bygone era. To maintain legitimacy and effectiveness, it was important to undertake a fundamental reform of those structures, in particular the Security Council.

20. **Mr. Al Arsan** (Syrian Arab Republic) said that the international community had been striving for decades to ensure that all States respected international law. Weak points should be identified in order to find the

right solutions, so that the rule of law could reign without selectivity.

21. The rule of law was indivisible. It was inadmissible to focus on some principles of the rule of law while ignoring others, whether at the national or the international level. The Charter of the United Nations, State sovereignty and non-interference in the internal affairs of States, the peaceful settlement of disputes, combating foreign occupation and terrorism, and maintaining international peace and security were the cornerstones of international law. The experience and crises in many countries had shown that challenges to respect for international law were not due to a lack of machinery or international instruments, but to double standards, selectivity and the approach of certain influential States that believed that they could interpret and apply international law in such a way as to ensure their hegemony over weaker States and that they could impose their views through the threat or use of force, invoking an erroneous notion of international law and politicizing legal and humanitarian principles to serve their own narrow interests, in violation of the Charter.

22. The crisis in Syria was an example of flagrant interference in the internal affairs of a State and was a threat to the country's national stability, security and territorial integrity. The Governments of certain States, and everyone knew who they were, supported, financed and armed radical terrorist elements and enabled thousands of foreign terrorists to enter Syria. Such action did not really constitute respect for the rule of law and the principles of international law and of the Charter. The fact that certain Governments and secret services brought foreign terrorists into Syria did not really represent the implementation of national and international law. The unilateral measures imposed on Syria and other countries by certain States did not really constitute respect for international law and the promotion of friendly relations among States and of development for all.

23. There could be no talk of respect for the rule of law in the face of the war crimes, crimes of aggression and crimes against humanity committed by the Israeli occupying Power against persons in occupied countries seeking to end the occupation. All those actions constituted a violation of the principles and very foundation of international law, the Charter, the Declaration on Friendly Relations among States, international counter-terrorism instruments and the right of people to a decent life free from the threat of terrorism.

24. With regard to the rule of law at the national level, the authorities in Syria, despite terrorism and the other challenges facing the country, were legally accountable for their actions in working to restore security and stability. They enforced national laws against all persons who had been involved in certain actions.

25. It was important to focus on ensuring the effectiveness of mechanisms within the United Nations in a balanced fashion without any political or financial polarization so that all States respected international law, the principles of the United Nations and the rule of law at the national and international levels. The provision of technical assistance in that regard should not be used to bring political pressure to bear, nor could it serve as a pretext for interfering in the internal affairs of States or violating State sovereignty.

26. His delegation drew attention to document A/71/799, containing a letter addressed by his Government to the Secretary-General with regard to General Assembly resolution 71/248, which had established a so-called independent mechanism, in violation of the Charter. Many Member States supported the position of Syria on that question.

27. **Mr. Omar** (Brunei Darussalam) said that respect for the rule of law was essential to maintaining peaceful coexistence and good relations among States. It provided an important link between the three pillars of the United Nations in promoting international peace and security together with social and economic development. His Government supported the leading role of the United Nations in coordinating efforts at the global level to strengthen the rule of law. The United Nations also reinforced the rule of law at the national level in the Member States through its work in the areas of peacekeeping, disarmament and good governance.

28. Brunei Darussalam was firmly committed to upholding the purposes and principles of the Charter of the United Nations in the maintenance of international peace and security. The rule of law was of the utmost importance, especially in terms of its linkages between national and international norms.

29. Brunei Darussalam benefited greatly from the invaluable support rendered by the Office of Legal Affairs through the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. The regional courses in international law for Asia-Pacific and the Geneva seminars on international law were particularly useful.

30. The United Nations Audiovisual Library of International Law was another readily accessible and helpful tool under the Programme. His delegation encouraged the Office of Legal Affairs to continue its

efforts to ensure that the extensive materials provided under that resource were regularly updated, and it suggested that the Office should widen coverage of meetings and events.

31. The dissemination of international commercial law was another way in which the rule of law could be further strengthened. Brunei Darussalam had elaborated domestic legislation in several areas based on the model laws of the United Nations Commission on International Trade Law (UNCITRAL). The International Arbitration Order 2009 had given legal effect to the UNCITRAL Model Law on International Commercial Arbitration (1985), and the provisions of the Electronic Transactions Act (Chapter 196), enacted in 2000, were generally consistent with the UNCITRAL model laws on e-commerce and electronic signatures.

32. Brunei Darussalam was also participating in the ASEAN Law Ministers Meeting, the Commonwealth Law Ministers Meeting and the annual session of the Asian-African Legal Consultative Organization. His country remained committed to working closely with the United Nations, Member States and other partners to ensure compliance with the rule of law so as to maintain peace and security, both regionally and internationally.

33. **Mr. Ly** (Senegal) said that it was more important than ever to ensure that both State authorities and private citizens respected the limits set by law, in conformity with the values of democracy and fundamental rights and the principles of an independent and impartial judiciary and access to an equitable system of justice. The rule of law, the cornerstone of modern constitutional democracy, was of crucial importance in putting an end to atrocity crimes and ensuring that the perpetrators were held accountable for their acts.

34. His delegation welcomed the new focus in the report of the Secretary-General (A/72/268) on ensuring the full implementation of the rule of law at the national and international levels, in particular with regard to access to justice for marginalized groups and the promotion of a culture of lawfulness at the national level. Accordingly, the Senegalese Minister of Justice had put in place a system of community justice centres to facilitate access to justice, which disseminated legal information, promoted alternative means of dispute settlement and made it easier for citizens to obtain certain official documents. Such services were free of charge with minimal formalities. The use of local languages further reduced barriers to access.

35. Senegal had also established offices to provide legal advice, a centre to strengthen the rule of law and the fight against corruption, a mechanism for the signing of good conduct and integrity agreements, and an independent administrative authority to combat fraud and corruption.

36. His delegation endorsed the call in the Secretary-General's report for the United Nations to continue to facilitate the development and promotion of an international framework of legally binding norms to advance accountability for international crimes, encourage humane and fair criminal justice systems, safeguard against environmental degradation and prevent human rights violations.

37. An international order based on the rule of law was a prerequisite to creating a more equitable world and ensuring the peaceful settlement of disputes between States; however, efforts to strengthen the rule of law entailed reinforcing the three pillars of the United Nations while bearing in mind the principle of equality and respect for cultural and religious particularities.

38. The International Criminal Court had an important role to play in combating impunity and promoting the rule of law, hence the need for universal accession to the Rome Statute.

39. **Mr. Essa** (Libya) said that the promotion of the rule of law at the national and international levels was an essential element for peaceful coexistence and the guarantee of individual freedoms and respect for human rights. Strengthening the rule of law was a keystone of efforts to respond to challenges at the national and international levels, such as violent crimes and terrorism, and to promote international security, sustainable development and the protection of human rights and fundamental freedoms. The rule of law also played a major role in building peace, strengthening post-conflict societies and consolidating the prevention of impunity.

40. The promotion of the rule of law required respect for the commitments arising from international instruments, including the Charter of the United Nations. The courts, mechanisms and conditions created under the Charter guaranteed non-selectivity, non-interference in internal affairs, avoidance of double standards, respect for the rights of people to self-determination, freedom from outside interference, access to international remedies and opposition to impunity and terrorism.

41. His delegation stressed the importance of the peaceful settlement of disputes and the use of the mechanisms established in the framework of international law, including the International Court of Justice and the courts established by treaties. Knowledge of the law was an important measure for

strengthening the rule of law, preventing certain offences and promoting peace and stability; it was thus crucial to disseminate all aspects of the rule of law by building the capacities of States, at their request, and by respecting the political, social and economic particularities of each State, in addition to creating information networks, exchanging expertise and organizing training programmes so as to improve knowledge about international law, especially in developing countries.

42. His delegation paid tribute to the Office of Legal Affairs and its specialized divisions and to the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.

43. **Ms. Kuret** (Slovenia) said that the rule of law was essential to international peace and security, sustainable development, respect for human rights and the fight against impunity. Much of the work of the United Nations in strengthening the rule of law at the national level accorded with her country's priorities, for example women's empowerment. Slovenia was currently holding preventive workshops for 900 refugee women in Lebanon and was engaged in a project in Jordan focusing on empowerment through the educational and vocational rehabilitation of Syrian refugee families.

44. Respect for international legal rules and compliance with international legal obligations were the very foundation of international relations based on the rule of law. Failure to implement the decisions and awards of international courts and tribunals constituted a failure to respect the rule of law. Slovenia abided by such decisions even if they presented a considerable financial burden and did not necessarily accord with its views or desired outcome. As a longstanding supporter of the International Criminal Court, it encouraged all States that had not done so to consider joining the Court, and it expressed strong support for the activation in 2017 of the Kampala amendments to the Rome Statute.

45. Slovenia welcomed the recent steps taken to combat impunity, including the establishment of the International, Impartial and Independent Mechanism for the Syrian Arab Republic and, more recently, the Security Council's authorization of the establishment of a team to investigate acts that might amount to atrocity crimes committed by ISIL in Iraq.

46. Her delegation welcomed the Secretary-General's approach to identifying specific challenges and the need for further efforts to strengthen the effectiveness, coherence and sustainability of United Nations rule of law assistance. Future discussions were needed on how to improve the format and promote the inclusiveness of that initiative. Her Government also reiterated its proposal that the rule of law subtopic at the seventy-third session of the General Assembly should be devoted to the implementation of the rule of law dimensions of the 2030 Agenda for Sustainable Development.

47. Slovenia commended the efforts of the Office of Legal Affairs and its specialized divisions for their important contribution. In Slovenia, focus was being placed on awareness-raising in respect of international humanitarian law and human rights law as an important part of the training programme for the military and the police.

48. Since 2005, Slovenia had actively promoted education on children's rights, including the rights of child refugees and migrants, for nearly 190,000 children in 26 countries in Europe, the Middle East, Latin America and Africa through its "Our Rights" project and teaching materials. In 2016, a worksheet on child refugees had been produced for children in Slovenia.

49. The rule of law was the best guarantee of freedom, dignity and prosperity for all people. It was an essential prerequisite for successful cooperation between nations, the peaceful settlement of disputes and stability, predictability and progress in international and bilateral relations. Slovenia stood ready to contribute to strengthening and promoting the rule of law at the national and international levels.

50. **Mr. Skinner-Klée** (Guatemala) said that his delegation endorsed the Secretary-General's call for Member States to engage in a frank and open dialogue on the effectiveness of United Nations rule of law assistance and, in particular, on ways in which its effectiveness, sustainability and coherence could be strengthened across the three pillars of the Organization. It agreed that the Organization must do more to support the implementation of the rule of law elements of the 2030 Agenda for Sustainable Development, and that the rule of law had a clear impact, for example, on eliminating poverty, reducing inequalities, supporting gender equality, protecting the environment, creating just, inclusive and strong institutions, guaranteeing access to justice and combating corruption and impunity. United Nations bodies must promote better coordination between the three dimensions of development.

51. His Government attached great importance to strengthening the rule of law by ensuring access to justice for all. It recognized the importance of a free, independent and effective judicial system to which everyone had access without discrimination. Ensuring access to justice meant making people aware of their rights and of the mechanisms for ensuring respect for

those rights. In addition, justice must be timely, judgments must be enforced and the justice system must be responsive and efficient.

52. The rule of law was also an essential component of initiatives to consolidate and maintain peace, and it was a decisive factor in the promotion and observance of human rights.

53. Guatemala valued the assistance it had received from the United Nations Development Programme, from the Office of the United Nations High Commissioner for Human Rights and from the International Commission against Impunity in Guatemala with regard to the strengthening of its capacity for the investigation and prosecution of human rights violations and the dismantlement of clandestine groups operating in the State apparatus. The International Commission against Impunity in Guatemala, set up at the express request of his Government, was tasked with overcoming structural obstacles to improving the country's capacity to combat impunity. Guatemala valued the cooperation established with the United Nations and donor countries and was confident that, at the end of the Commission's mandate, State institutions would have the tools to meet their responsibilities.

54. His delegation called on Member States to work with the United Nations to strengthen alliances and cooperation, make technical knowledge more available and share positive experiences so as to improve United Nations assistance. It urged the Secretary-General to include in his report to the seventy-third session of the General Assembly specific measures to make United Nations rule of law assistance even more effective, sustainable, cross-cutting and coherent, in line with its programme of reform.

55. **Mr. Millogo** (Burkina Faso) said he welcomed the United Nations assistance in Africa in strengthening judicial and security structures, reducing armed violence and ensuring access to justice for groups with special needs, in particular women and children.

56. There was no single model for the development of the rule of law; any action to that end must be based on domestic solutions and the specific context of each country, bearing in mind that the rule of law and democracy meant that citizens could influence national and local governance by participating at regular intervals in choosing their leaders, in conformity with the law.

57. The decision of the citizens of Burkina Faso to build a State that respected individual rights and democratic standards was reflected in the strengthening of the country's judicial framework for the ratification of the main international human rights instruments. A constitutional commission composed of representatives of the political parties, civil society, defence and security forces, legal experts and environmental protection advocates had been put in place to elaborate a new constitution that reflected the changing social and political circumstances in the country.

58. Following a wide-ranging consultation with the people of Burkina Faso, the commission had submitted a preliminary draft constitution to the President that would soon be voted on in a referendum. The objective of the new constitution was to strengthen guarantees of human rights and fundamental freedoms and ensure a better balance of powers and the independence of the judiciary. The reform of the National Commission of Human Rights to bring it into line with the Paris Principles was continuing.

59. The succession of terrorist attacks in the country had strengthened the Government's conviction that the judicial framework needed to be adapted to the new situation. To enhance the independence of the judiciary, a permanent secretariat of the Supreme Council of Justice had been established and new courts had been built. A programme for the recruitment and training of judges had been set up and financing for the legal aid fund increased to ensure access to the courts for all, including persons living in poverty.

60. The Government continued to organize training on respect for human rights and international humanitarian law for members of defence and security forces. It had also launched awareness-raising initiatives on civic responsibility and citizenship for young people.

61. Burkina Faso was firmly committed to complying with the international legal instruments to which it was a party and to cooperating with mechanisms for the protection and promotion of human rights. It had drafted a road map to implement the recommendations made by the Committee on Enforced Disappearances, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee following the submission of its 2016 country reports to those bodies.

62. Respect for the rule of law was a prerequisite for durable international peace and stability. The rule of law at the national and international levels was a guarantee of sustainable development and must be a priority for States.

63. **Ms. Chernysheva** (Russian Federation) said that her delegation had consistently advocated the strengthening of an international and national order based on unswerving respect for internationally

accepted principles of international law, specifically those set out in the Charter of the United Nations. Greater attention should be given to the question of ways and means to further disseminate international law to strengthen the rule of law, and her delegation looked forward to more detailed information on the subject in subsequent reports of the Secretary-General. It was interested in the section of the Secretary-General's report on making United Nations rule of law assistance more effective and coherent, but believed that the Third Committee was the right place for discussing matters relating to planning and carrying out peacekeeping operations.

64. In the future, States would have to determine the role of the Global Focal Point for Police, Justice and Corrections Areas in the Rule of Law in Post-Conflict and Other Crisis Situations, bearing in mind that it was merely based on an internal administrative decision taken by the United Nations..

65. Her delegation continued to believe that the Sixth Committee should focus on the international dimension of the rule of law. In that connection, it was important to have detailed information on mechanisms that enjoyed universal support, and her delegation regretted that the International Court of Justice, one of the six main organs of the United Nations, was mentioned in the report simply in passing. Moreover, the focus in the report had shifted to non-United Nations bodies, such as the International Criminal Court. The scope of relations between the Court and the United Nations was restricted by a special agreement. Nor was it clear to her delegation why the report dealt with an illegitimate "mechanism" to investigate crimes in the Syrian Arab Republic which the General Assembly, exceeding its powers, had established in violation of the Charter. The Russian Federation reiterated its call to the Secretary-General and Member States not to provide any support for it whatsoever.

66. Her delegation was pleased that the report emphasized the need for United Nations support to be provided to States solely when requested by national authorities and that at the national level, there was no single model for the development of the rule of law. The choice of State structure, governance and organs of State power was an internal matter and was inseparable from the principles of equality of States, State sovereignty and non-interference in the internal affairs of States. While not downplaying the value of United Nations assistance to States in making their constitutions and improving their legislation, such assistance should be provided solely at the request of the country concerned and with due regard for its national strategies and priorities. A comprehensive analysis of the cultural, historical, legal, religious and other particularities of the unique model of the rule of law specific to each State should be an essential part of steps taken by the United Nations to strengthen the rule of law at the national level.

67. The Russian Federation was prepared to work with all interested parties in promoting the rule of law at the international and national levels.

68. **Mr. Saikal** (Afghanistan) said that United Nations support for Afghanistan over the past 17 years had been crucial in enabling it to make great progress towards becoming a stable and self-reliant country grounded in the rule of law. The National Unity Government was working to consolidate the rule of law as an imperative for promoting stability, security and national welfare.

69. A solid foundation was in place to bring stability to Afghanistan. Under the National Peace and Development Framework, a major overhaul of security, judicial and other institutions was being conducted to enhance their transparency, effectiveness and accountability.

70. The High Council on the Rule of Law and Anti-Corruption, the overarching body spearheading national efforts to strengthen good governance, had recently approved a new, wide-ranging strategy to address the problem of corruption. The Anti-Corruption Justice Centre was taking measures to investigate, prosecute and hold to account officials involved in illegal activities; 21 cases had been completed, including some involving senior government officials.

71. Afghanistan was establishing a merit-based process for the recruitment of officials at all levels. The National Procurement Commission had led to substantial progress in promoting transparency in the issuance of government contracts. In addition, at the Senior Officials Meeting in Kabul, his Government had just presented an update on the reform commitments made at the 2016 Brussels Conference on Afghanistan.

72. His delegation welcomed the commitment of the United Nations Counter-Terrorism Committee Executive Directorate to scale up its assistance in counter-terrorism capacity-building. During its visit to Kabul, earlier in the year, the Directorate had identified a number of areas for new cooperative initiatives with Afghan agencies, including support for strengthening judicial institutions to investigate and prosecute cases of terrorism. His Government looked forward to the Directorate's meeting with donor countries in the weeks ahead to focus on the implementation of key recommendations of the visit outcome report.

73. Ensuring a more efficient and effective United Nations system was imperative for enhancing its role in advancing the rule of law nationally and internationally. In that connection, his delegation underscored the need to reform the Security Council so that it could better address the pressing challenges of the day.

74. **Ms. Al-Juboori** (Iraq) said that her country had always been committed to international instruments and agreements and to respect for the rule of law at the national and international levels. That had been confirmed in the 2005 Constitution, which enshrined the principles of respect for State sovereignty, non-interference in the internal affairs of States and settlement of conflicts by peaceful means and dialogue.

75. In 2012, a memorandum of understanding had been concluded between the Ministry of Justice of Iraq and the United Nations Assistance Mission for Iraq (UNAMI) on visits to Iraqi prisons and detention centres. The Human Rights Office of UNAMI was monitoring the human rights situation in Iraq in close cooperation with her Government and non-government sectors. Iraqis were receiving training on rules governing the treatment of prisoners and detainees.

76. Iraq complied with international instruments and agreements, including the United Nations Convention against Transnational Organized Crime, to which it had acceded in 2013, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. In 2012, it had enacted Law No. 28, on trafficking in persons, in order to curb the spread of that crime, address its consequences and punish the perpetrators. In accordance with Order 75 of 2012, a commission had been set up to take preventive measures to reduce poverty, unemployment and exploitation. The law on human organ transplantation had been amended to prevent organ trafficking and to prosecute perpetrators. In 2008, Iraq had acceded to the United Nations Convention against Corruption. The national body tasked with combating corruption had provided legal assistance to the competent authorities in accordance with article 46, paragraph 13, of the Convention. A national academy against corruption had been put in place to oversee the fight against corruption nationally and internationally.

77. Iraq valued the assistance received from the United Nations Development Programme (UNDP) in building stronger, accountable and legitimate institutions for strengthening the rule of law. It looked forward to greater support from the international community for drafting a plan to reform the security sector and enable it to eliminate all forms of violence and strengthen the rule of law at the national level. In 2015, a strategic partnership had been created between UNDP and the national security service to help promote security and justice by building the capacities of civil society. UNDP also provided documentation assistance in Iraq to refugees and displaced persons in respect of, for example, the issuance of birth certificates to children of unknown, unidentified ISIL fighters and divorce certificates to women who had been forced to marry ISIL fighters.

78. Iraq was working to build strong civil institutions based on transparency, fairness, respect for human rights and freedoms, dignity and enforcement of national law, in line with international principles, obligations and standards, and international agreements on the rule of law.

79. **Ms. Argüello González** (Nicaragua) said that her country espoused the rule of law and recognized the State's responsibility to maintain democracy, sovereignty, transparency and equity in all spheres. Nicaragua had shown its commitment to the restoration of the economic, political, social and cultural rights of the population, with particular emphasis on the human rights of women and children. Work in Nicaragua was continuing with a view to restoring the rights of all citizens to health, education, access to land and to justice and to live in peace.

80. A strengthening of the rule of law called for respect for the legal institutions of all States, recognition of the sovereign right of States to choose their form of government and respect for the right of peoples to self-determination.

81. Her delegation reiterated the importance of maintaining a balance in the development of the national and international dimensions of the rule of law. The rule of law at the international level needed to be given closer attention in the United Nations. The Charter of the United Nations and the principles contained therein were essential to promoting international relations based on the rule of law.

82. Nicaragua was committed to any initiative that would help to reinvent the United Nations in response to the growing demand for a democratic organization that would serve the interests of security, justice, and peace in the world. The peaceful settlement of disputes through dialogue and negotiation was the only option. The work of the International Court of Justice not only contributed to the promotion, consolidation and dissemination of the rule of law, but was also essential to the fulfilment of commitments to ensure the sovereign equality of all States, a fundamental principle of the United Nations.

83. **Ms. Granda Averhoff** (Cuba) said that the true rule of law began with a reformed United Nations that set a standard for transparency, democracy and the participation of the entire international community in the solution of critical global problems. As part of that reform, the central role of the General Assembly, the only body with universal membership, must be consolidated in order to strengthen the rule of law. Cuba also reiterated its commitment to bringing about a far-reaching reform of the Security Council in order to make it into an inclusive, transparent and democratic forum that reflected the true interests of the international community. At present, some of the members of that body openly violated international law and the decisions of the Council itself, with a view to imposing their political agenda and to achieving military domination over the developing countries.

84. Sovereign equality, good-faith compliance by States with their obligations, the peaceful settlement of disputes, the non-use or threat of use of force against the territorial integrity or political independence of any State and non-interference in the internal affairs of other States must be the basic principles governing the actions of all States. Cuba condemned any attempt to overturn or replace national authorities or to foment internal conflict in sovereign States with the aim of imposing external agendas.

85. Promotion of the rule of law started with due respect for the legal institutions of all States and recognition of the sovereign right of peoples to create the legal and democratic institutions that best corresponded to their political and cultural interests. Cuba accordingly viewed with concern attempts to impose certain conceptions of the rule of law and to politicize the discussion of the subject.

86. Apart from formal legislation, the true rule of law called for the unequivocal rejection of any unilateral acts or measures such as the promulgation of extraterritorial legislation and the politically motivated exercise of jurisdiction by national or international tribunals. Cuba called for the revocation of the extraterritorial legislative acts instituting the economic embargo that had been in place against it for over 50 years.

87. **Mr. Mpongosha** (South Africa) said that the rule of law was a critical component in building peace, preventing conflicts and meeting the Sustainable Development Goals of the 2030 Agenda. Referring to the subtopic on ways and means to further disseminate international law to strengthen the rule of law, he said that, with a view to promoting the dissemination of international law at the regional level, South Africa had participated in the Fifth Forum of the African Union Commission on International Law, on the role of Africa in developing international law, hosted by Ghana in December 2016. A number of salient themes emanating from the Forum spoke directly to the Secretary-General's report (A/72/268).

88. The Constitution of South Africa contained a provision setting forth the primacy of the Constitution and the rule of law. The courts must ensure that interpretations of legislation were consistent with international law. Some of the clauses in the Constitution referred expressly to international law. When interpreting the Bill of Rights, a court, tribunal or forum must promote the values that underlay an open and democratic society based on human dignity, equality and freedom, in line with international law. Moreover, the content of international law must itself be fair if it was to promote the rule of law. States and international organizations must consider whether the rules being elaborated met that criterion.

89. **Mr. Bukoree** (Mauritius) said that the rule of law was an underlying principle of the Constitution of Mauritius and had contributed significantly to its economic growth, because political stability, coupled with a legal system that strictly adhered to the rule of law, had enabled the country to attract foreign investment and international business and benefit from economic opportunities.

90. The Constitution required that legal processes, institutions and substantive norms must be consistent with human rights, including the core principles of equality under the law, accountability before the law and fairness in the protection and vindication of rights. It guaranteed protection of the right to life, the right to personal liberty, protection from slavery, forced labour and inhuman treatment, protection of property, protection of the privacy of the home and other property, protection of the law, freedom of conscience, expression, assembly and association, freedom to establish schools, freedom of movement and protection from discrimination. All international treaties to which Mauritius acceded had been incorporated into national legislation.

91. Disputes between States should be settled peacefully, and force should be resorted to only in accordance with the Charter of the United Nations. Unfortunately, some States referred to the notion of exceptionalism and refused to comply with the rulings of international tribunals. It was more important than ever for international law to be based on equality of States, and not on "might makes right". Otherwise, the rule of law would be constantly flouted.

92. *Ms. McDougall (Australia), Vice-Chair, took the Chair.*

93. **Mr. Yang** Jaiho (Republic of Korea) said that efforts to confront the challenges of climate change, global terrorism, human rights violations, inequality, poverty and the displacement of refugees and migrants must be grounded in a rule-based international order. With regard to the subtopic on ways and means to further disseminate international law to strengthen the rule of law, his delegation stressed the importance of disseminating international law and devising efficient means to do so. That would not only help address various global and regional challenges but also promote and advance the rule of law.

94. Many States were facing a scarcity of resources for dissemination of international law, and the need for enhanced capacity-building was greater than ever. In that connection, his delegation commended the activities of the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, especially those of benefit to persons from developing countries. It appreciated that the Codification Division of the Office of Legal Affairs continued to disseminate legal publications and information online, along with the publication of a handbook. It also commended the work the Rule of Law Coordination and Resource Group and the Rule of Law Unit for conducting projects to deliver more targeted support to Member States and to enhance the impact of rule of law efforts on people's lives.

95. The Republic of Korea had a number of institutions and research organizations that focused on international law issues, frequently held workshops and seminars on specific topics of international law and regularly published academic journals. The Centre for International Law, established in November 2013 under the auspices of the Korea National Diplomatic Academy, had launched the Seoul Academy of International Law in 2016 with a view to training and educating persons working in the field of international law on current international legal issues, such as peace and security, international investment law, the law of treaties and international law in East Asia. In 2017, it had held nine two-week courses for 46 participants, including diplomats, legal practitioners, scholars and researchers from 24 countries in Asia and the Pacific.

96. The Republic of Korea had committed itself to strengthening the rule of law at the international level through various programmes and activities, including education and training for government officials and other professionals from developing countries on the implementation of international instruments on the oceans, such as the United Nations Convention on the Law of the Sea.

97. The Republic of Korea had been contributing since 2011 to various activities for the dissemination of international trade law through the UNCITRAL Regional Centre for Asia and the Pacific in order to provide capacity-building and technical assistance for States in the region and to support public, private and civil society initiatives to enhance international trade and development. His Government would continue to support the operation of the Regional Centre until 2021 and to provide a legal expert for technical cooperation and assistance.

98. The Republic of Korea had also been active in the dissemination of international criminal law. In close cooperation with the International Criminal Court and the European Commission, it had hosted the eighth High-Level Regional Seminar of the Court in April on the theme "The ICC and Asia: the joint quest for justice, accountability and prevention" to discuss ways to strengthen cooperation on international criminal justice matters and promote ratification of the Rome Statute in the region.

99. His delegation commended United Nations efforts to highlight the utility of its electronic database and resources for providing easy access to information and disseminating legal publications and material, and it encouraged the Organization and Member States to make greater efforts to tap the possibilities stemming from technological progress in the years to come.

100. Education was one of the cornerstones of efforts to promote the rule of law and disseminate international law. States should include the fundamental principles and concepts of international law in their basic education programmes in order to heighten the awareness of future generations of the vital role of the rule of law and the close linkage between it and the universal values of the international community, including the three pillars of the United Nations.

101. The Republic of Korea reaffirmed its commitment to the promotion and advancement of the rule of law at the national and international levels, which was essential for the realization of the 2030 Agenda for Sustainable Development, the protection of human rights, the maintenance of peace and the prevention of conflicts, and peaceful coexistence and cooperation among States.

102. **Ms. Rugwabiza** (Rwanda) said that her Government commended United Nations efforts to promote the rule of law. The Constitution of Rwanda was built on the principles of equal rights and equal

treatment of all persons without any distinction. It guaranteed fundamental rights and freedoms for all.

103. Laws were only as good as their implementation, and implementation was only as good as the fairness underpinning it. Like many other delegations, Rwanda reiterated its call for a mechanism that ensured fair and just application of laws and principles agreed upon by the Member States, in particular those enshrined in the Charter of the United Nations. Equality was the essence of the rule of law, which was a common denominator of peace and security, development and human rights. The principles of the rule of law were critical to the realization of social and economic justice and to the implementation of the political, economic, cultural and religious rights to which Rwanda was committed.

104. At the international level, the imperatives for ensuring practical equality among States required guaranteeing inclusiveness in the development of international law and a fair and just application of those laws and principles. The international justice system, based on the international judicial institutions, must be strengthened to promote adherence to the principles of the Charter and international law and must avoid bias and political manipulations by some Member States. Good governance at the international level was fundamental to strengthening the rule of law.

105. The rule of law at the national level could be improved by strengthening national ownership of reform initiatives and giving a key role to country-level assessments. The tragic past of Rwanda and its experience in uprooting decades of discrimination and widespread human rights violations was the context in which it applied the rule of law to build a unified, reconciled nation. Home-grown solutions, such as the *gacaca* traditional courts, had served Rwanda better than any other system in prosecuting all those who had participated in the genocide against the Tutsis in the 1990s.

106. **Ms. Samarasinghe** (Sri Lanka) said that strengthening the rule of law at the national and international levels was a common responsibility of Member States. As a nation that had recently suffered from terrorist attacks and a culture of impunity, Sri Lanka was acutely conscious of the need for the rule of law to work in tandem with the independence of the judiciary and the separation of powers.

107. In times of transition from conflict, recognition of victims' rights promoted civic trust and strengthened the rule of law. States had a duty to guarantee that violations did not recur and to reform institutions that proved incapable of preventing abuses. Moreover, in societies where human frustration was prevalent and the rule of law was threatened, the empowerment of women was particularly important.

108. Structural inequalities hindered the access of women and girls to justice, hence the need to ensure a gender-responsive legal system and international order and to have gender-sensitive policies. Sri Lanka had ratified the main international human rights instruments and policy documents relating to discrimination and violence against women. In September, it had signed the Secretary-General's voluntary compact on preventing sexual exploitation and abuse in peacekeeping operations.

109. At the international level, the rule of law must be based on an order grounded in the principles of sovereign equality and non-interference, non-use of force or the threat of force and the peaceful settlement of disputes. The principle of sovereign equality was of particular importance, as it ensured that all States had an equal opportunity to participate in the international law-making process. It also protected developing States from the harshness of an unequal world. Specific social, religious, philosophical and cultural factors had played a significant role in the evolution of the rule of law in different regions. The rule of law could therefore not be enforced from the outside, nor could it be made to conform to an external prescription that ignored domestic realities.

110. The codification and development of international law was a key aspect of the rule of law at the international level. The International Law Commission made a valuable contribution in that regard, as did the International Court of Justice, through its jurisprudence. Her delegation commended the important work of the Office of Legal Affairs in strengthening multilateral treaty-making processes, but also noted that developing States faced challenges to their participation, including insufficient financial and administrative resources and lack of legal expertise. The United Nations had a crucial role to play there by assisting States with capacity-building.

111. **Ms. Pobee** (Ghana) said that the rule of law underpinned the 1992 Constitution of Ghana, ensuring that government institutions complied with the tenets set forth therein. The principles of separation of powers and independence of governmental institutions had been gradually embedded in the national culture over the years.

112. Her delegation welcomed the emphasis placed in the Secretary-General's report (A/72/268) on issues relating to capable and accountable justice and security institutions, community-oriented security and armed violence reduction, access to justice for marginalized

groups, security and justice for women and girls, and a culture of lawfulness in the promotion of the rule of law. It expressed appreciation to the Rule of Law Unit for the briefings held throughout the year, and to the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, whose capacity-building and technical assistance activities were crucial to realizing the full benefits of the rule of law at the national and international levels.

113. Access to legal representation and legal aid were provided for under the Constitution and reinforced by a number of legislative acts. A robust legal aid mechanism had been developed to ensure that all citizens of Ghana, especially the poorest and the most vulnerable, had fair access to the legal system. A person requiring such assistance received it, at government expense, in the form of representation through a lawyer, including in the steps preliminary or incidental to any proceedings or in arriving at a compromise to avoid proceedings. An example of such assistance was a programme that afforded prisoners on remand access to legal representation.

114. With regard to the case of *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, which was referred to in paragraph 48 of the Secretary-General's report, it was gratifying that both countries had accepted the verdict in good faith and had made a joint declaration to that effect. Ghana called on all States to follow that example and to resort to the rule of law to settle such disputes peacefully.

115. **Mr. Hitti** (Lebanon) said that although there was no agreed definition of the concept of the rule of law, it was based on intangible values such as equality before the law, accountability and guarantees of fundamental rights. A strengthening of the rule of law did not require the drafting of new norms, but rather a better respect for and implementation of existing international treaties, above all the Charter of the United Nations. His delegation referred in that connection to the role of small States in advancing the rule of law, for example that of Lebanon in the drafting of the Universal Declaration of Human Rights.

116. The dissemination of the rules and principles of international law was essential to guarantee their respect by States and individuals. In Lebanon, a committee had been established in 2010 to elaborate a plan for incorporating international humanitarian law into domestic legislation and to ensure its dissemination.

117. The United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law contributed to consolidating the three pillars of the United Nations through its regional programmes and its Audiovisual Library of International Law. Lebanon called once again for the Programme's activities to be funded under the regular budget. The International Law Commission had also made a major contribution to the promotion of the rule of law.

118. Respect for the decisions of international tribunals furthered friendly relations between States and the peaceful settlement of disputes. In that connection, State compliance with the rulings and advisory opinions of the International Court of Justice was crucial, and his delegation recalled that, pursuant to Article 93 of the Charter, all Members of the United Nations were *ipso facto* parties to the Statute of the Court.

119. **Mr. Mendoza-García** (Costa Rica) said that promotion of and respect for the rule of law at both the international and the national levels were crucial to making progress towards peace, stability, democracy, respect for human rights and sustainable development. His country's experience and international evidence had shown that countries in which the rule of law prevailed were able to ensure better living conditions for their citizens. Sustainable development could only be achieved if there were sound, legitimate institutions through which the Sustainable Development Goals of the 2030 Agenda could be met.

120. Ensuring access to justice for all, especially for vulnerable population groups, was the duty of all States. Patterns of social and economic exclusion, however, militated against true access to justice and were a catalyser of radicalization. His delegation agreed with the Secretary-General that development was the best ally in preventing domestic conflicts.

121. At the international level, respect for the rule of law meant full compliance with the international legal framework. In that connection, Costa Rica had deposited four international instruments over the past year. It was committed to the peaceful settlement of disputes using the legal machinery offered by international law. The International Court of Justice played a crucial role in the peaceful settlement of disputes between States and in the development of international law and the strengthening of the rule of law. All States should abide by its decisions in good faith. In addition, his Government noted with satisfaction that the International Criminal Court was gradually bringing to justice those responsible for the worst violations of international law and crimes against humanity. His delegation urged all States that had not yet done so to ratify the Rome Statute and the

amendments thereto, bearing in mind their responsibility to the victims of mass atrocities.

122. **Mr. Tupouniua** (Tonga) said his delegation commended the Office of Legal Affairs and its specialized divisions for their work in ensuring the dissemination of international law through the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, the electronic treaty database, the United Nations Audiovisual Library of International Law and other online resources, which had been of great assistance to Tonga in capacity-building.

123. The effective implementation of the 2030 Agenda for Sustainable Development was a priority for Tonga, which shared the view that the rule of law at the national and international levels played a critical role in promoting an environment that fostered the achievement of the Goals and the creation of genuine and durable partnerships. The United Nations must do more to support the rule of law elements of the Agenda and foster external partnerships to ensure its successful delivery. Tonga supported the proposal made by the Deputy Secretary-General the previous day for the inclusion of the implementation of the 2030 Agenda in the agenda of the Sixth Committee at the seventy-third session of the General Assembly.

124. Given the slow progress in addressing specific global issues within the development and strengthening of international law, information and guidance should be provided to Member States on gaps in international law and on actions that could help garner international political and financial support to close those gaps.

125. Tonga reiterated the importance of further dissemination of international law at the national level to better promote the rule of law, and of genuine and durable partnerships within the United Nations and with partners within and among States to ensure that small island developing States like Tonga had the appropriate capacity and institutions to engage and cooperate in furthering the rule of law at all levels. It thanked partners in the Pacific Island region and elsewhere that continued to collaborate with Tonga in that area.

126. **Mr. Simonoff** (United States of America) said that the rule of law at the international level was so fundamental that the Charter of the United Nations had identified the International Court of Justice as one of its main organs. The rule of law demanded that all people, in all corners of the world, whether stateless or not, enjoyed the benefits conferred by the Charter.

127. The rule of law at the domestic level entailed the possibility of subjecting the Government's decisions to judicial review. It meant that when a court ruled against the Government, even with regard to controversial governmental actions, the Government respected and abided by that ruling, and it meant that the applicable domestic constitutional framework was honoured whenever a governmental decision was challenged.

128. The rule of law at the domestic level required an honest, fair and just judiciary, and it functioned best when that judiciary was independent and impartial. Judges must not be swayed by political pressure and must not be susceptible to bribes or other corrupt influences. In order for populations to accept decisions, judges must be models of integrity, devoted to the rule of law.

129. With regard to the subtopic on ways and means to further disseminate international law to strengthen the rule of law, his delegation appreciated the valuable work of the Rule of Law Coordination and Resource Group and the Rule of Law Unit, and it commended private legal associations for their efforts to disseminate international law, such as the American Bar Association and the American Society of International Law, and the many schools in the United States with major international law programmes.

130. His delegation commended the Office of Legal Affairs for its work in disseminating international law to strengthen the rule of law. The Under-Secretary-General for Legal Affairs and the Assistant Secretary-General for Legal Affairs were engaged in important outreach by reporting on the latest developments in international law at meetings in New York and in other countries. His Government valued the important work of the Codification Division in disseminating international law to a broad audience, and in particular the successful efforts of those who worked on the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. He praised the efforts of the Treaty Section in providing timely information on treaty action and notifications on its website; of the Office of the Legal Counsel in negotiating and implementing new instruments advancing international criminal justice; of the General Legal Division in facilitating domestic prosecutions; and of the Division for Ocean Affairs and the Law of the Sea in promoting international understanding of the law in that area. Suffice it to say that the Office of Legal Affairs played a vital role in disseminating and strengthening the rule of law at the international level.

The meeting rose at 1 p.m.

United Nations A/C.6/72/SR.7

General Assembly
Seventy-second session

Official Records

Distr.: General
31 October 2017

Original: English

Sixth Committee

Summary record of the 7th meeting
Held at Headquarters, New York, on Thursday, 5 October 2017, at 3 p.m.

Chair: Mr. Gafoor (Singapore)

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17-17579 (E)

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The meeting was called to order at 3.05 p.m.

Agenda item 84: The rule of law at the national and international levels (A/72/86 and A/72/268)

1. **Mr. Sukhee** (Mongolia) said that strengthening the rule of law promoted justice, peace and security and was the main driver of sustainable development and respect for fundamental human rights. The rule of law had long been an integral part of his country's development agenda. His Government had adopted and achieved its own national Millennium Development Goal 9 on human rights, democratic governance and corruption, and was committed to the implementation of Sustainable Development Goal 16 on peace, justice and strong institutions.

2. Efforts had been made to align national legislation with international human rights treaties and conventions. Mongolia had abolished the death penalty in line with the Second Optional Protocol to the International Covenant on Civil and Political Rights, to which it was a party. New laws on the rights of the child and the protection of the child adopted in 2016 reflected the recommendations of the Committee on the Rights of the Child. National laws, international treaties and conventions were made available to the public in order to promote universal access to justice.

3. The best way to ensure the rule of law was to promote legal education and facilitate access to justice for all. It was also essential to address public sector corruption. To that end, the Mongolian Parliament had recently adopted a six-year national anti-corruption strategy, and the national anti-corruption agency had delivered training to more than 7,000 public officials over the past year.

4. His Government had been implementing a process of judicial reform over the past decade to strengthen the rule of law, which had resulted in the adoption and entry into force of laws concerning courts, judges, lawyers, mediation and citizen representation in courts. A law had also been adopted that required all Government entities to publish details of their expenditure and enabled any citizen to raise questions or report failings in relation to public spending. Moreover, legislative reforms had been undertaken to enhance accountability, transparency and efficiency in areas such as arbitration, criminal law and the regulation of public and private interests.

5. Multilateral treaties, conventions and instruments had an important role to play in advancing the rule of law at the international level, as did the work of international judicial bodies such as the International Criminal Court, the International Tribunal for the Law of the Sea, the International Court of Justice and the Permanent Court of Arbitration. His Government had taken steps to strengthen multilateral cooperation in the judicial sector. With the support of the United Nations Development Programme, it had implemented legal aid projects that were helping to ensure that no one was left behind in efforts to guarantee access to justice for all, in line with the right to legal assistance enshrined in the Mongolian Constitution. Capacity-building at the national and international levels, multilateral cooperation and the provision of technical assistance were needed to help developing countries contribute to the achievement of Sustainable Development Goal 16.

6. **Mr. Plasai** (Thailand) said that the rule of law was crucial to the achievement of the Sustainable Development Goals. In order for the rule of law to truly serve the people, it must be upheld first and foremost by the people. For that reason, his Government had been working for years to support the valuable efforts of the United Nations to disseminate international law. It had co-hosted four United Nations regional courses in international law and stood ready to continue that collaboration. His delegation hoped that regular and adequate funding would continue to be provided for those courses.

7. The United Nations had also supported the rule of law through its work on codification and the progressive development of international law, which promoted a clear and common understanding of positive law. Conferences convened under the auspices of the United Nations had led to the development of many important treaties, most recently the Treaty on the Prohibition of Nuclear Weapons, which his Government had signed and ratified on 20 September 2017.

8. The rule of law could ensure equal opportunities and protect persons from violations of their basic rights. It was therefore important to make a greater effort to ensure that the rule of law was respected with regard to marginalized and vulnerable groups, including women, children, older persons, persons with disabilities and incarcerated persons. That could be done through the adoption of standards such as the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules).

9. The rule of law was the best way to ensure security and predictability in personal and business relations between people in different countries. His delegation recognized the critical role of the United Nations Commission on International Trade Law (UNCITRAL) and the Hague Conference on Private

International Law in supporting the advancement of the rule of law in that regard.

10. The rule of law could also secure accountability for violations by individuals of international human rights law and international humanitarian law. His Government had demonstrated its commitment to the rule of law in that context by making a voluntary contribution to the Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic, established pursuant to General Assembly resolution 71/248.

11. **Mr. Taye** (Ethiopia) said his delegation welcomed the acknowledgement by the Secretary-General in his report (A/72/268) that there was no single model for the development of the rule of law at the national level. The report also noted that the international legal framework on climate change was still at a relatively incipient stage. In that connection, more should be done to bring about the universal adoption of the Paris Agreement and the implementation of the various other international agreements on climate change.

12. While the international legal framework and legal standards on the rights of migrants were strong, much more must be done to address the most urgent challenges concerning the protection of irregular migrants. International solidarity and cooperation, asylum systems and open-door policies were essential to deal with displacement and migration, and his delegation encouraged the Secretary-General to enhance his efforts in those areas.

13. The rule of law played an essential role in maintaining peace and security and promoting human rights and development, as the conclusion of international agreements and peaceful dispute resolution enabled compromises to be made between nations with apparently polarized interests. The dissemination of international law was thus a crucial task that States undertake jointly, through cooperation and the pooling of resources. His delegation welcomed the efforts of the United Nations to disseminate international law, in particular through the Audiovisual Library of International Law and the regional courses in international law delivered as part of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. The regional courses had increased opportunities for young lawyers to build their understanding of international law.

14. **Ms. Sande** (Uruguay) said that international law was grounded in respect for the sovereignty and equality of States and the principles of international law established in the Charter of the United Nations. Peaceful coexistence could only be achieved if States adopted and complied with treaties and other international agreements. In her country, treaties were binding immediately upon ratification. Strengthening the rule of law at the international level would require coordination, commitment, compliance with conventional and customary law and joint action to support States in their efforts to ensure that their domestic legislation provided for respect, equality, the enjoyment of human rights, the separation of powers, an independent judiciary, a democratically elected Government and a regulatory Parliament.

15. The rule of law was becoming increasingly important in the face of the urgent need for States to work together to combat terrorism and human rights violations. That would require the dissemination of international law, in particular in less developed countries; the development of knowledge of international law among prosecutorial bodies; the application of the norms of criminal law; cooperation in matters of extradition, on the basis of reciprocity in cases where there were no treaty relations; the strengthening of the international criminal justice system, including the ad hoc tribunals; and support for law of the sea tribunals and the International Court of Justice. Providing incentives for the development and codification of international law and protecting the rule of law at the national level while respecting the principles enshrined in the Charter of the United Nations should be priorities.

16. The regional courses in international law were an extremely valuable tool for promoting the development and dissemination of international law. They also encouraged communication between participants, which created essential links between the legal sectors of different States.

17. The current challenges relating to the rule of law must be addressed in a diligent, swift and effective manner through communication and the creation of networks. That would best be achieved through the Sixth Committee and the International Law Commission, as those bodies had the capacity to carry out in-depth analysis and issue informed recommendations. Such analysis should take into account emerging situations that would have to be addressed through innovative approaches.

18. **Mr. Ntonga** (Zimbabwe) said that his delegation welcomed the targeted support provided through the

Programme of Assistance, which should be strengthened through partnerships and dedicated funding. The United Nations electronic treaty database was a valuable resource for Member States and the general public. The dissemination of international trade law and the law of the sea was also making a significant contribution to the understanding of international law.

19. Development, peace and security and human rights were inextricably linked to the rule of law. The United Nations should continue to be guided by the principles enshrined in the Charter, including the sovereign equality of States, non-interference in the internal affairs of States, the right to self-determination, non-aggression, the peaceful coexistence of States and respect for the independence, sovereignty and territorial integrity of States. It should also promote the settlement of disputes by peaceful means and in accordance with international law. Small States depended on the rule of law for protection against arbitrary actions taken by the rich and powerful. Recent experiences demonstrated that violent intervention, even when ostensibly undertaken to uphold the responsibility to protect, did more harm than good. Unilateral measures taken against weaker States for narrow political purposes undermined socioeconomic development in those States. It was regrettable that such measures continued to be applied despite the calls for States to refrain from resorting to them contained in the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (A/RES/67/1) and the 2030 Agenda for Sustainable Development.

20. At the national level, his Government was committed to enhancing the rule of law and good governance by strengthening the national justice institutions and accountability laws. All domestic laws were now being aligned with the new Constitution, which strengthened the principle of separation of powers and established independent commissions that oversaw issues pertaining to the rights and interests of citizens.

21. His delegation would welcome the sharing of national practices in the areas of justice and the rule of law and was committed to cooperation, based on mutual understanding and respect, on matters such as capacity-building. Development and harmonious relations between States would never be achieved through force and coercion; they could only be realized if differences were addressed through multilateralism, dialogue and cooperation.

22. **Mr. Islam** (Bangladesh) said that the ongoing reform of peacekeeping operations should take due account of the assistance provided by the United Nations in the area of the rule of law. In particular, that assistance should be reflected in the prioritized and sequenced mandates that the Security Council should develop to address the changing realities on the ground. It was also important to consider how activities concerning the rule of law could be reflected in the consideration of peacebuilding matters, given that the Peacebuilding Support Office was expected to serve as a hinge between the peace and security pillar and the development and human rights pillars of the United Nations.

23. The Economic and Social Council should facilitate in-depth consideration of how the rule of law could facilitate the implementation of the 2030 Agenda. Those discussions should involve representatives of civil society organizations and provide Member States with opportunities to describe their experiences and the innovative measures they had taken in the context of the voluntary national review process. The next report of the Secretary-General on the rule of law should examine the rule of law assistance being provided under the development pillar.

24. The areas for reflection concerning mission transition, the resourcing of rule of law assistance and the role of United Nations police mentioned in the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/72/268) should be considered by the Special Committee on Peacekeeping Operations. Needs-based support, which should involve results-based planning and flexible budget provision for the concerned missions, should be provided for rule of law activities on the ground. His country had, for the first time, provided two corrections officers to the United Nations Mission in South Sudan.

25. The financial difficulties of the International Criminal Court should be addressed to enable it to properly investigate and try cases referred to it by the Security Council. The Court had made significant headway in ensuring accountability for international crimes, despite the constraints under which it was operating, and its work and independence warranted strong support.

26. Bangladesh welcomed the work of the United Nations on strengthening accountability for international crimes at the national level and remained ready to share its experience in using its domestic justice system to prosecute the crimes against humanity

and genocide committed in Bangladesh during the conflict of 1971.

27. The pace of the work on the elaboration of a comprehensive convention on international terrorism should be accelerated, given the urgent need for internationally agreed norms and standards for combating terrorism and related transnational organized cybercrime. An intergovernmental normative exercise on the topic should be undertaken under the auspices of the General Assembly as soon as possible.

28. There should be sound monitoring and evaluation of the effectiveness of the global focal point arrangement for the coordination of rule of law assistance at the national level before a decision was made about scaling up that mechanism.

29. **Mr. Tun** (Myanmar) said that his Government had placed an emphasis on the rule of law in order to promote peace, stability, democracy and economic development. Action plans were being implemented to protect the legal rights of individuals, strengthen the performance of the Office of the Attorney-General, enhance the trustworthiness and integrity of the justice system and promote the rule of law. Rule of law centres had been established in various parts of the nation to provide training for lawyers, educators and civil society organizations and promote general awareness of the law. The work of the centres primarily concerned local justice issues linked to international rule of law principles such as fairness and equality. To promote better relations between the police and the general public, a series of police reforms had been introduced following the democratic transition in Myanmar. His Government was also working with other States and international organizations to combat transnational organized crime.

30. All Member States should renew their pledge to respect, support, preserve and promote the principles and purposes of the Charter of the United Nations and international law. His Government's ratification of the Paris Agreement on climate change and its recent accession to the Doha Amendment to the Kyoto Protocol to the United Nations Framework Convention on Climate Change reflected its firm commitment to the environment and the achievement of the Sustainable Development Goals.

31. **Ms. Nguyen** (Vietnam) said that the rule of law had a fundamental role to play in the promotion of peace, sustainable development and human rights, and also in the implementation of the 2030 Agenda. The primary cause of the continuing conflicts around the world was the failure to observe international law in good faith. The promotion of the rule of law at the international level must be based on the principles of the Charter and international law. Member States must therefore refrain from selective interpretation and application of the principles of sovereign equality, respect for sovereignty, the political independence and territorial integrity of States, non-interference in the internal affairs of States, the obligation to refrain from the threat or use of force, and the peaceful settlement of disputes. The International Court of Justice and other international judicial institutions had a crucial role to play in the peaceful settlement of disputes. Challenges such as terrorism, protracted conflict, the proliferation of weapons of mass destruction, transnational crime and climate change should be addressed through multilateral actions that were in compliance with international law.

32. Her Government was making progress towards aligning national legislation with the international agreements to which it was a party, which included the Paris Agreement and the Treaty on the Prohibition of Nuclear Weapons. As a member of the Association of Southeast Asian Nations (ASEAN), Vietnam was contributing to efforts to transform South-East Asia into a zone of peace, stability and prosperity. In that connection, all parties involved in the complex dispute concerning the East Sea, or South China Sea, should exercise self-restraint and settle the dispute by peaceful means in accordance with international law, respect diplomatic and legal processes, implement the Declaration on the Conduct of Parties in the South China Sea and expedite the completion of an effective and legally binding code of conduct.

33. The consolidation of the rule of law at the national level should respect the universally accepted fundamental principles of international law while taking into account the specific conditions of the State and the aspirations of its people. Her Government was putting into effect its 2030 Agenda implementation plan and proceeding with judicial reforms to promote the rule of law and the freedom and fundamental rights of the population. Her delegation strongly supported the role of the United Nations in the dissemination of international law and the strengthening of the rule of law at the international and national levels and hoped that the Organization would continue to support Member States in the drafting and implementation of legislation.

34. **Mr. Zhang** (China) said that his Government was committed to the consolidation of the rule of law at the international level and to safeguarding the fundamental principles of international law. All States should uphold the rule of law, exercise their rights in accordance with the law and fulfil their obligations in

good faith. Furthermore, Governments and international judicial bodies should reject double standards and the selective application of international law.

35. The dissemination of international law would play a crucial role in achieving the international rule of law. International organizations and Member States could do more to promote dialogue and cooperation to facilitate the dissemination and promotion of international law. His delegation welcomed the positive contribution of the Programme of Assistance, in particular the regional courses and the International Law Fellowship Programme. His Government made annual financial contributions to support the regional courses in Asia and Africa and the Audiovisual Library. The United Nations should make full and effective use of the Programme of Assistance to facilitate the sharing of resources and information on international law. His Government had consistently promoted the dissemination of international law and contributed its knowledge to capacity-building efforts in developing countries. Through the Exchange and Research Programme on International Law between China and the Asian-African Legal Consultative Organization, his Government had provided training for more than 100 legal professionals from developing countries.

36. Enhanced awareness-raising, education and research at the national level were important for the dissemination of international law. In that connection, his Government had made information on international law available online, engaged in public awareness-raising activities and established partnerships between government institutions and the academic sector to enhance public awareness of the latest developments. It had also made international law a required course for students majoring in law at all of the 628 institutions offering law degrees.

37. His Government stood ready to fulfil its obligations under the international rule of law; promote democratic legislation, impartial judicial practice and rigorous adherence to the law; and contribute to ensuring respect for the rule of law in international relations.

38. **Mr. Bondiuk** (Ukraine) said that global problems such as climate change, mass displacement, migration, terrorism and increasingly complex conflicts required responses grounded in the rule of law. Accordingly, his delegation endorsed the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels.

39. The rule of law was the cornerstone of the Ukrainian legal order and a core element of the ongoing judicial, police, economic and financial reforms and decentralization process. His country had risen in the rankings of the World Justice Project Rule of Law Index following the implementation by his Government of anti-corruption measures, which had included the establishment of independent anti-corruption institutions, the development of an electronic public procurement system and banking sector reforms.

40. The promotion of the rule of law at the international level was crucial for ensuring international justice and peaceful relations between States. International law and international courts and tribunals should be strong and effective in their protection of human rights and the sovereignty and territorial integrity of States. While Ukraine was not a State party to the Rome Statute of the International Criminal Court, his Government had accorded the Court jurisdiction over crimes against humanity committed against the civilian population in the Ukrainian revolution of 2014 and war crimes perpetrated by the Russian Federation since the commencement of its ongoing military aggression against Ukraine.

41. His Government was also continuing to pursue its case against the Russian Federation, *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination*, before the International Court of Justice. The Russian Federation should fully and unconditionally implement the Court's recent order on the request for the indication of provisional measures in that case, and also the recommendations of the Office of the United Nations High Commissioner for Human Rights in its report on the situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine (A/HRC/36/CRP.3), which contained information concerning the violations by the Russian Federation of its international legal obligations.

42. The investigation into the downing of Malaysia Airlines flight MH17 was continuing. His Government had recently ratified a bilateral treaty with the Netherlands to allow the suspects to be tried in that country. Furthermore, the five States represented on the Joint Investigation Team had signed a memorandum of understanding regarding political support for prosecuting the perpetrators.

43. It was essential to strengthen, promote and advance the rule of law. Only strong and united condemnation of all acts violating the purposes and

principles of the Charter, international law and the international order based on the rule of law could prevent the world from descending into chaos.

44. **Mr. Giorgio** (Eritrea) said that lack of compliance with international law was a root cause of many inter-State tensions and conflicts. The purposes and principles of the Charter and the principles of international law were of paramount importance for peace and security, the rule of law, economic development, social progress and human rights for all, and Member States should renew their commitment to uphold, preserve and promote them. Respect for the principles of sovereignty, territorial integrity and non-interference in the internal affairs of States would help to establish a just, secure and peaceful world order.

45. Strengthening the rule of law at the national level was critical for social and economic progress, political stability and promotion and protection of human rights. The enhancement of the capacity of the national justice system to promote the rule of law was a key component of his Government's development policy. Eritrea had taken numerous measures to achieve a peaceful and inclusive society by ensuring a comprehensive, efficient and effective justice system. Access to and participation in the justice system had been enhanced through the establishment of community courts, with community election of judges every two years; one candidate in each election must be a woman. Electing women judges had contributed to national efforts to ensure greater emancipation of women and their involvement in the judicial process.

46. New penal and civil codes and procedures designed to reflect the concepts, values and norms of society had also been developed, and the Ministry of Justice was running workshops and campaigns to ensure wider understanding of domestic laws. The Ministry had also provided capacity-building for justice system staff and introduced new systems for monitoring and assessing performance and managing court processes in order to enhance the capacity of the justice system and support the establishment of a well-functioning office to coordinate and follow up on the implementation of treaties, agreements and conventions to which Eritrea was a party.

47. His Government was cognizant that advancing the rule of law was an evolutionary process that would require sustained involvement of all stakeholders and sectors of society. It also recognized the importance of national ownership of rule of law activities. In that connection, it was important to provide Member States with enhanced technical assistance and capacity-building, upon request, to enable them to implement their international obligations at the national level.

48. **Mr. Morales López** (Colombia) said that the United Nations should strengthen its support to Member States in the implementation of the 2030 Agenda, including with regard to the promotion of the rule of law at the national and international levels and ensuring equal access to justice, which were envisaged in target 3 of Sustainable Development Goal 16 and would also contribute to the achievement of a number of the other Goals. States should also take more concerted action in that regard, as it would not be possible to implement the 2030 Agenda without strong, independent institutions that were able to guarantee fundamental freedoms and rein in excesses of power.

49. His Government had taken steps to establish a special court for peace, which would be responsible for investigating and prosecuting persons who had participated in the armed conflict in Colombia. It had also worked to improve citizen security and coexistence in the areas most affected by violence. Colombia had a strong legal tradition, but the rule of law had been undermined by the violence and inequality that had plagued the country for many years. The country was now emerging from that paradoxical situation into a new era in which it would be guided by the rule of law as a fundamental element of lasting peace. The authorities and civil society, with the support of the international community, had made great strides in their efforts to establish peace and ensure that victims were able to exercise their rights to truth, justice and reparation. A law setting out the procedures for the reintegration into society of members of armed groups operating outside the law had been adopted in 2005, which had been followed in 2011 by the adoption of a law providing for the provision of care, assistance and reparation to victims of the armed conflict. The process of adopting laws to implement the peace agreement with the Fuerzas Armadas Revolucionarias de Colombia (FARC) demonstrated the significant contribution that the rule of law could make to sustaining peace and highlighted the importance of having effective institutions in place to implement such measures.

50. His Government was committed to eradicating despotism and enhancing the well-being and prosperity of all of its citizens, and therefore welcomed the support that the United Nations could provide for the strengthening of the rule of law. The Organization's approach to that objective should be based on cooperation with States. To that end, efforts should be made to improve communication between the General Assembly, the Economic and Social Council and the

Security Council. It was important to ensure that measures adopted by the various United Nations bodies would be sustainable and effective in the long term.

51. **Ms. Krisnamurthi** (Indonesia) said that the United Nations had generally been successful in maintaining international peace and security by upholding the rule of law. However, international humanitarian law, international human rights law and Security Council resolutions continued to be violated in Palestine. Victims of atrocities deserved justice, and access to justice for individuals and States seeking to have their fundamental rights upheld was an important element of the rule of law. The United Nations should therefore do more to address impunity and send the message that no one was beyond the reach of the law.

52. To strengthen international law, Security Council resolutions should be implemented in a robust, fair and impartial manner and States should implement in good faith their treaty obligations in the areas of humanitarian, human rights and refugee law. Moreover, there must be an end to the politicization of international law within the United Nations system. That would require the reform of the Security Council and the revitalization of the General Assembly.

53. With regard to ways and means to further disseminate international law, it would be necessary to improve knowledge of international law on the part of Government officials, legal practitioners, academics and law students. Her Government was incorporating the principles and provisions of international law into its domestic legislation. Under Indonesian law, it was compulsory to disseminate information on legislation, regulations, presidential decrees and other legal instruments and to make court rulings and jurisprudence available to the general public.

54. Ensuring that international commitments were implemented at the national level would require not only political will but also the development of partnerships for capacity-building in developing countries. The United Nations could be instrumental in such efforts. The support it had received from the United Nations through the review mechanism for the implementation of the United Nations Convention against Corruption had enabled her Government to improve its national legal framework on corruption and build the capacity of law enforcement officials in that area. The review process could continue to be a useful tool for strengthening the rule of law provided that it remained transparent, efficient, inclusive, impartial and non-intrusive. In that connection, her delegation hoped that the implementation review mechanism for the United Nations Convention against Transnational Organized Crime would soon become a reality.

55. Her country had also benefitted from activities designed to familiarize national stakeholders with international legal instruments, such as the training for judges on international asset recovery provided through a collaboration between the United Nations Office on Drugs and Crime and the World Bank. Her Government was strongly in favour of the establishment of a treaty body or secretariat to facilitate and oversee the implementation of certain treaties and other legally binding instruments.

56. **Mr. Phiri** (Zambia) said that the rule of law was a core principle of governance that ensured justice and fairness for all, and its absence or failure would be one of the greatest threats to the existence of any society. For the rule of law to prevail, Governments must be bound by the laws they established. Moreover, every individual must be treated equally, have their dignity recognized and protected, and have access to justice. The rule of law thus depended to a large extent on the existence of an independent, efficient and effective judicial system. However, it should also be borne in mind that a strong judicial system could not serve the rule of law if the laws it enforced were oppressive, inhumane or directly or indirectly deprived citizens of their unalienable God-given rights.

57. It was the duty of Member States to establish the foundations and structures that would secure a more peaceful, prosperous and just world committed to the purposes and principles of the Charter, international law, justice and an international order based on the rule of law. Member States must strive, individually and collectively, to continue to strengthen the rule of law at the national and international levels. The rule of law required an independent judiciary and the separation of powers. Zambia was a party to a number of instruments that recognized judicial independence as a cornerstone of good governance, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.

58. His Government's vision of making Zambia a prosperous middle-income country by 2030 had led to fundamental policy shifts driven by the firm belief that good governance was a prerequisite for political stability, human security, economic growth and sustainable development. The national Legal and Justice Sector Reform Commission was currently engaged in public consultations across the country. It would ultimately ensure that all progressive provisions of the Constitution, which had been amended in 2016 following an inclusive national process, were

implemented systematically, in order to enhance the availability, accessibility, accountability, affordability and competence of the judicial system.

59. The strong rule of law at the national level played an important role in the strengthening of the rule of law at the international level. It was therefore imperative for Member States to work tirelessly to build the pillars of democracy that would guarantee the rule of law at the domestic, regional and international levels.

60. **Mr. Luna** (Brazil) said that the United Nations had been founded with the aim of building an international order based on justice and cooperation. It was regrettable that there was now a risk of the existing order being eroded and respect for the Charter undermined, in particular with regard to the use of force. The negative effect of the failure by States to respect international law not only had direct consequences — human casualties, humanitarian crises and destabilization in certain regions of the world — but also indirectly encouraged other actors to behave likewise. No country was exempt from rigorous compliance with its legal obligations. If the Charter did not remain at the centre of the international order, there would be no order. It was therefore essential to continuously reflect on the contradictions, asymmetries, gaps and weaknesses of the United Nations and to propose solutions that would help strengthen multilateralism by ensuring respect for the rule of law at the national and international levels, as well as within the Organization.

61. In Latin-based languages, the term for "rule of law" meant broadly "a state of rights". Thus, from his country's vantage point, the rule of law signified not only the establishment of enforceable standards of behaviour; it also meant promoting social inclusion through the legal empowerment of populations. Enhancing access to justice was crucial for tackling the root causes of poverty, exclusion and vulnerability, given that it facilitated the full enjoyment of rights and public services. Access to justice was more than access to courts. It also involved universal birth registration, provision of free legal aid and alternative dispute resolution. Brazil also strove to provide a legal identity for migrants, refugees and asylum seekers. Once an asylum seeker had been granted refugee status, he or she received an identity card, had access to public medical assistance and was eligible to study and to work.

62. States should provide free and effective legal aid to vulnerable populations to ensure that they were able to exercise their rights. Recourse to mediation and conciliation should be promoted, since such mechanisms were swift, cost-effective and had higher rates of acceptance and spontaneous compliance. Brazil's efforts in relation to access to courts ranged from minimizing the administrative fees and collateral costs of seeking judicial remedies to increasing the judiciary's capacity of response. Innovative tools had been developed to accelerate judicial proceedings, a task in which information technology and improved statistics had a clear role.

63. The trend of creating multilateral legal frameworks without necessarily resorting to prior work by the International Law Commission or the Sixth Committee did not necessarily translate into a diminished role for the Sixth Committee, which could and should serve as a platform to exchange views on recent developments regarding the law of treaties. As a locus for cross-fertilization, the Committee could contribute both to updating an understanding of current practice and to bringing more cohesion to the dense web of multilateral treaties. In that connection, the regulations concerning the registration and publication of treaties, which had not been amended since 1978 and made no reference to electronic resources, should be updated to reflect current practice and potentially enhance the efficiency of the registration and publication process. It was also important to support United Nations initiatives to assist Member States in the registration of treaties. An item dedicated to the review of the regulations should be included on the agenda of the seventy-third session of the General Assembly.

64. **Mr. García Moritán** (Argentina) said that the Organization's capacity-building activities were crucial for strengthening the rule of law in many countries, particularly in conflict and post-conflict situations, where strengthening judicial and law enforcement systems should be a priority. It was also essential to prevent impunity for gross violations of human rights. The Rome Statute of the International Criminal Court, one of the most significant achievements of the international community, played a central role in that respect. His Government was in favour of the prompt activation of the Court's jurisdiction over the crime of aggression, which would reaffirm that justice and the law took precedence over force in international relations.

65. His Government was committed to the implementation of Sustainable Development Goal 16 and intended to increase its efforts at the national, regional and international levels to promote access to justice for all. In that connection, in November 2016 Argentina had hosted the second International

Conference on Access to Legal Aid in Criminal Justice Systems, which had considered options for setting up a global network of legal aid providers as a means of furthering efforts to achieve target 3 of Sustainable Development Goal 16. It had also hosted the first regional seminar of the Global Alliance for Reporting Progress on Promoting Peaceful, Just and Inclusive Societies in June 2017.

66. Strengthening of democratic institutions was also a requirement for promoting the rule of law. In that regard, it was important to highlight the role that regional integration mechanisms had played in promoting the rule of law in Latin America. Argentina reaffirmed its strong commitment to the preservation of democratic institutions, the rule of law, constitutional order, social peace and full respect for human rights.

67. One of the pillars of the rule of law was the peaceful settlement of disputes, in which the International Court of Justice played a central role. In addition to the Court, various specialized courts, such as the International Tribunal for the Law of the Sea, facilitated dispute settlement. Argentina was a party of the United Nations Convention on the Law of the Sea and had accepted the jurisdiction of the International Tribunal. Other methods of international dispute settlement were also provided for in the Charter of the United Nations and mentioned in the Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels (A/RES/67/1). For example, the Secretary-General might also be requested to exercise his good offices for the peaceful settlement of disputes. However, in order for any means of peaceful settlement to succeed, the parties concerned must act in good faith and negotiate when called upon to do so by United Nations organs, including the General Assembly.

68. **Mr. Fintakpa Lamega** (Togo) said that Togo was a party to 222 multilateral treaties concerning all areas of international law. His Government's programme to modernize the national justice system involved enhancing the legal, institutional and organizational frameworks; improving prison administration; ensuring access to rights and fair and high-quality justice; strengthening the professional and managerial capacities of justice system staff; modernizing equipment and logistical systems; and strengthening the financing and management of the judicial system.

69. His Government was undertaking a number of reforms to promote peace, social cohesion, democracy and the rule of law, which were crucial to harmonious and sustainable development. A draft law based on the work of the Justice and Reconciliation Commission that, if adopted, would limit the time in office of the President and members of Parliament to no more than two five-year terms and introduce a two-round uninominal majority electoral system had been submitted to the National Assembly. More than two thirds but less than four fifths of the members of the National Assembly had voted in favour of the law, which meant that, in accordance with the Constitution, the matter would be put to a referendum.

70. His delegation supported the role of the Office of Legal Affairs in facilitating the development and promotion of an international framework of norms, standards and legally-binding mechanisms to resolve disputes and maintain peaceful relations between States. It also welcomed the work undertaken by the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law to disseminate and improve understanding of international law. It appreciated the well-designed treaty collection website and encouraged the Treaty Section to organize treaty practice workshops at Headquarters and at the regional level, with a view to enhancing the capacities of legal professionals.

71. **Mr. Mohammed AlAjmi** (Kuwait) said that any country's constitution and laws should reflect its commitment to the rights and freedoms enshrined in the Universal Declaration of Human Rights. Accordingly, Kuwait had a democratic constitution that recognized the people as the source of legislative, executive and judiciary power and upheld the principle of the rule of law by ensuring that the three branches of government were separate but complementary. At the international level, Kuwait was committed to international law and conventions, the maintenance of peace and security and the peaceful resolution of disputes. When international law was violated, the political will of the international community was undermined. A case in point was the Israeli side's persistent construction of illegal settlements, which contravened all of the relevant United Nations resolutions. All available means should therefore be used to ensure that international law was respected and enforced without selectivity.

72. **Mr. Al-Sharif** (Saudi Arabia) said that his country was in the process of revising and developing its national legislation. There was no contradiction between the Islamic sharia and the rule of law; each sought to uphold justice, ethics and the public good. Saudi Arabia was endeavouring to guarantee justice and equality for all citizens. Women had voted in recent local elections, and women now accounted for 20 per cent of the Shura Council. Women had been appointed to high-level Government posts, and wage

discrimination between men and women had been prohibited. A legislative framework had been put in place to prevent violence against women and ensure that they enjoyed the same rights as men. A royal order had recently been issued to allow women to drive vehicles.

73. Saudi Arabia supported all efforts to foster international peace, security, human rights and sustainable development while combating poverty, terrorism and extremism. Its international relations were based on the principles of sovereignty and non-intervention in other States' internal affairs. The country was working to provide assistance and strengthen transitional justice in conflict-ridden States, and to ensure respect for international law, particularly with regard to refugees.

74. The United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law would help to strengthen the rule of law at the national level, and should therefore be maintained and enhanced.

75. **Mr. Jaiteh** (Gambia) said that respect for the rule of law was conducive to ensuring respect for the purposes and principles of the United Nations. For that reason, his Government had made it a priority to reform its security sector, consolidate democracy and foster inclusivity and respect for human rights and the rule of law. The country's new National Development Agenda highlighted the link between development and the rule of law, which had been underscored in the 2012 Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels. Failure to understand that connection could exacerbate poverty, injustice, insecurity and inequality. The Gambia was therefore overhauling its legal system with a view to strengthening the rule of law in accordance with international best practices.

76. **Ms. Pejic** (Serbia) said that the rule of law was of paramount importance for preventing conflict and achieving sustainable peace. It was therefore incumbent upon Member States to uphold and abide by the rule of law at all levels. At the national level, the rule of law was the principal prerequisite for stability and, consequently, economic growth and social development. At the international level, peace and security could only be achieved through justice and the rule of law. Serbia was therefore committed to the establishment of an international order that was based on the rule of law and served as the cornerstone of peaceful coexistence and cooperation among States. The rule of law also had a crucial role to play in the promotion and protection of human rights, including through the implementation of the 2030 Agenda.

77. Serbia had helped to establish the International Criminal Court and was strongly in favour of further strengthening the Court's institutional capacity and activities to enable it to fulfil its mandate to prosecute and punish the perpetrators of the most serious international crimes. All States and international organizations should cooperate fully and unconditionally with the Court and help to bring about universal acceptance of the Rome Statute.

78. The United Nations and its Member States must not tolerate impunity. For that reason, her Government had cooperated extensively with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. Serbia had also aligned its criminal legislation with international standards and conducted war crimes trials in its national courts.

79. Her delegation supported United Nations activities to promote the rule of law and the work of the Rule of Law Coordination and Resource Group, provided that they respected the principles of national sovereignty, territorial integrity and non-interference in the internal affairs of States.

80. Her Government was committed to strengthening the rule of law in order to ensure legal security for individuals and societies and promote economic growth, social development and political stability in all States.

81. **Mr. Bentaja** (Morocco) said that the rule of law was a guarantee of development and stability and remained linked to the three pillars of the United Nations: peace and security, human rights and development. His country remained committed to multilateralism, in line with the rules and principles of international law, and supported the Organization's integrated, rule-of-law approach to all aspects of international relations, based in particular on respect for the Charter of the United Nations, peaceful conflict resolution, respect for the sovereignty, national unity and territorial integrity of States, and non-interference in their internal affairs. The subject was of great importance, given the complexity of the current international environment, marked by rapid and sweeping transformations. Climate change, terrorism, population movements and organized crime were but some of the major challenges facing the world, particularly in the African continent where the recent exponential development of threats endangered States' stability and territorial integrity.

82. Following the adoption of the 2030 Agenda for Sustainable Development, the signing of the Paris Agreement and the adoption of the Call for Action by the United Nations Ocean Conference, Member States must find suitable ways of disseminating international law in order to strengthen the rule of law worldwide. They would thereby provide an essential lever for United Nations efforts to prevent armed conflict and preserve international peace and security. Aware of the importance of the Organization's role in that regard, Morocco had been actively involved since its independence in the Organization's peacekeeping operations around the world, particularly in Africa. At the same time, his country had contributed to the efforts of the national institutions concerned to restore the rule of law, notably by helping to mend judicial institutions, civil governance and public services.

83. His delegation recognized the importance of the Committee's deliberations, which formed part of the exchanges between Member States and the International Law Commission for the progressive development of international law. Together with other African members of the Committee, Morocco had been at the origin of the request for the International Law Commission to meet in New York in 2018 for an exchange of views with Member States. Morocco also appreciated the respective roles of the Security Council and the International Court of Justice in upholding the rule of law and welcomed the holding of regional seminars and courses for African, Arab and Asian States under the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; his delegation called for such seminars and courses to be financed from the regular budget.

84. Morocco, for its part, had hosted and organized several international conferences and meetings to promote the rule of law, while the Diplomatic Academy of Morocco, since being founded in 2011, had regularly organized seminars in international law for diplomats from its own country and from abroad. The building of an international society depended on a strengthening of the rule of law at the national level through the establishment of democratic, transparent, legitimate and credible institutions capable of meeting the needs of the population in all aspects of everyday life, in accordance with the principles of equitable and accessible justice, guaranteeing respect for the law on a basis of equality and protecting individuals so that they might effectively exercise their political, economic, social and cultural rights.

85. **Mr. Alnaqbi** (United Arab Emirates) said that his country's foreign policy was based on partnerships and the rule of law. The crises affecting the Middle East had been caused by aggressive expansionist policies. That situation made it all the more important to strengthen international peace and security, prevent disputes, foster human rights, develop economic legislation to promote investment and prosperity, and combat money-laundering, corruption, human trafficking and transnational crime.

86. His country's efforts to consolidate the rule of law in the Constitution had placed it at the forefront of the region in the World Justice Project Rule of Law Index for 2016. National legislation guaranteed fundamental freedoms, justice, security and stability; crime and corruption rates were low. The United Arab Emirates played a positive role in the international community and was a party to numerous conventions. However, certain States were violating their obligations by facilitating the financing of terrorism, harbouring terrorist groups or promoting hate speech. In order to reverse that trend, it was essential to intensify international cooperation, exchange information and hold accountable States that sponsored, financed, or encouraged terrorism and extremism.

87. **Mr. Mattar** (Egypt) said that the rule of law at the international revel should prevent the use of force to settle disputes. While significant progress had been made in formulating international law, further work was needed to raise awareness of international law and foster full compliance with binding United Nations resolutions and the judgments of international tribunals. At the international level, the principle of the rule of law must be followed in the settlement of long-standing international conflicts, putting an end to foreign occupation and combating international terrorism by refraining from providing terrorists with funds, weapons, safe haven or any other form of support.

88. The United Nations and other international and regional organizations had a key role to play in that regard. Capacity-building based on the principle of national ownership was also vital, and cooperation among countries for that purpose should be encouraged. When formulating strategies for support and technical assistance, the United Nations should adopt a more flexible approach, taking into account the different needs and priorities of each country.

89. At the national level, the stability and prosperity of countries was closely linked to respect for the rule of law. With that in mind, his Government had taken a number of steps to enhance the rule of law, including revision and updating of laws to bring them into

alignment with international norms, ratification of numerous international conventions and the provision of support to enhance the judiciary. New legislation had been enacted and a national strategy formulated with a view to combating corruption, and the Government had also undertaken a review of compliance with its obligations under the United Nations Convention against Corruption.

90. **Ms. Fernández Juárez** (Bolivarian Republic of Venezuela) said that strict observance of the Charter, including the principles of sovereignty, territorial integrity, the peaceful settlement of disputes, the prohibition of the threat of use of force and non-interference in the internal affairs of States, was crucial for the establishment of a just international order in which international rule of law, peace and security prevailed.

91. The important task of promoting the rule of law at the national and international levels would involve respecting and strengthening the political and judicial structures of States, the international legal framework and the commitment to the peaceful settlement of disputes. The rule of law had an important role to play in achieving equal relations between States. It made acts by States predictable and legitimate, strengthened the sovereign equality of States and upheld the responsibility of the State in relation to all persons under its jurisdiction.

92. The rule of law was a prerequisite for the enjoyment of human rights, including the right to development. Her delegation urged all States to refrain from adopting and applying unilateral sanctions and other economic, financial or commercial measures that undermined international law and the Charter, hindered the full economic and social development of other countries and had a negative impact on the rule of law and the peaceful coexistence of States.

93. Urgent action should be taken on the democratization of the United Nations, the revitalization of the General Assembly, the reform of the Security Council and the strengthening of the Economic and Social Council, with a view to making those organs more efficient, representative and transparent and maintaining the appropriate balance between them in accordance with the powers ascribed to them in the Charter. The achievement of the rule of law at the international level would require Security Council reform, in particular with regard to its composition and decision-making process. Moreover, the Security Council should not address or securitize matters that fell outside its purview.

94. His delegation paid special tribute to the work of the United Nations in promoting international law, that of the International Law Commission in codifying legal norms, and that of the Treaty Section of the Office of Legal Affairs in updating and promoting multilateral treaties. The Committee should consider the possibility of making the Treaty Series website available in all the official languages in order to increase its accessibility and consequently better fulfil its purpose of promoting the implementation of treaties.

95. It was also necessary to consider ways and means to develop and strengthen links between work on the rule of law and the three pillars of the United Nations. Rule of law assistance should have a broad scope that took into account challenges related to economic growth, sustainable development and the eradication of poverty. Initiatives undertaken by the Programme of Assistance, in particular academic regional activities such as face-to-face and online seminars, symposiums and workshops, should also continue, as they had a significant impact on the domestic legislation of States.

96. **Mr. Bagherpour Ardekani** (Islamic Republic of Iran) said that the principle of State immunity was one of the cornerstones of the international legal order and a rule of customary international law, most recently codified in the United Nations Convention on Jurisdictional Immunities of States and Their Property. Its primacy had been recognized by the community of nations, all legal systems and the International Court of Justice. With the sole possible exception of commercial activities, claims against a sovereign State must be pursued either in accordance with mechanisms provided for in bilateral or multilateral agreements or through international courts or tribunals. It was a matter of grave concern that a few countries seemed to believe that they could defy the fundamental principle of State immunity by unilaterally waiving the immunity of States under a groundless legal doctrine not recognized by the international community. Such misuse of legal instruments amounted to an internationally wrongful act and entailed the responsibility of the concerned States, including the responsibility to make full reparations for the damages incurred. While each State had the sovereign right to shape its own model of the rule of law, domestic law could not be applied unilaterally to extraterritorial matters.

97. The Committee's deliberations had given rise to significant conventions, which had in turn strengthened the international order. That important function of the Committee should be sustained in a spirit of inclusivity and transparency. Failure to respect those principles

would result in the fragmentation of international law, undermine multilateral legal frameworks and ultimately weaken the rule of law at the international level.

98. The United Nations should do its utmost to raise awareness of international law, as doing so would make it more difficult for States to disregard legal precepts. The United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law had an important role to play in fulfilling that function.

99. The formulation of international law had failed to keep pace with developments in technology and the increasing sophistication of international relations. However, the main challenge to the rule of law was not the lack of appropriate norms, but rather the prevalence of unilateralism, disregard for international law and disrespect for the common interest of the international community. Reviewing that approach would be a first step towards achieving a rule-based international order. His delegation hoped that the forthcoming report of the Secretary-General on strengthening and coordinating United Nations rule of law activities would avoid the shortcomings of the current report and address the challenges facing the rule of law at the international level, namely foreign occupation, aggression, unilateral intervention and unilateral coercive measures.

Statements made in exercise of the right of reply

100. **Ms. Chernysheva** (Russian Federation) said that the delegation of Ukraine had used all of the Main Committees in order to make the same anti-Russian provocations. The tragedy unfolding in eastern Ukraine was a result of a large-scale military operation that had been carried out in 2014 by the Kyiv authorities against their own people. The delegation of Ukraine had referred to the International Criminal Court, which had not, since its inception, proved to be either effective or impartial. Nonetheless, her Government hoped that it would act objectively in the case in question and pay close attention to the flagrant crimes committed by Ukrainian forces against civilians in south-eastern Ukraine, crimes that had been documented in detail by the Office of the United Nations High Commissioner for Human Rights and international non-governmental organizations.

101. **Mr. Mohammed Al-Thani** (Qatar) said that at the 6th meeting of the Committee, held on 5 October 2017, the representative of the Syrian regime had made spurious, mendacious and propagandistic accusations against his country. The Syrian regime lacked any legitimacy, and its crimes had caused and exacerbated the rise of Islamic State in Iraq and the Levant (ISIL). Its record was in stark contrast with that of Qatar, which had played an effective and groundbreaking role in promoting justice and accountability in Syria by supporting the establishment of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011. Qatar had led initiatives to tackle the roots of terrorism and violent extremism, and had joined the Global Coalition to Counter ISIL. It would not be deterred from fulfilling its religious and ethical duty by combating impunity and supporting the Syrian people.

102. **Mr. Al Arsan** (Syrian Arab Republic) said that certain delegations persisted in politicizing certain agenda items in a manner that was neither professional nor transparent. The representative of Qatar appeared to be unaware of the rules of procedure of the General Assembly. If he persisted in using derogatory terms to denote the Government of the Syrian Arab Republic and the Permanent Mission of the Syrian Arab Republic, the latter would reserve the right to respond in kind. Every day, the Syrian Arab Army and its allies had crushed dozens of terrorists belonging to ISIL and the Nusrah Front, terrorists whom the Government of Qatar had supported funded and armed. On 15 August 2017, it had emerged that two charities working as a front for Qatari intelligence had channelled $15 million to the Nusrah Front on Syrian territory.

103. On 27 November 2016, in an interview with the Reuters news agency in Doha, the Minister for Foreign Affairs of Qatar, Mohammed bin Abdulrahman Al-Thani, had said that Qatar would continue to arm rebels in Syria, even if the President of the United States put an end to United States support for the multinational effort. That statement effectively recognized that Qatar was supporting terrorists and would continue to do so. On 11 May 2015, in an interview with the newspaper *Le Monde*, the Minister for Foreign Affairs of Qatar at the time had said that realism required moderate rebels to work with the Nusrah Front. That notion of realism was an affront to international law. Did the representative of Qatar wish to deny that those statements reflected his Government's position?

104. The so-called Global Coalition to Counter ISIL was illegal, and had in fact done everything but combat ISIL. For instance, it had looked on while ISIL smuggled Syrian oil to Turkey and deployed convoys between Syria and Iraq. The coalition had also killed thousands of Syrian civilians, destroyed infrastructure and bombed Syrian Arab Army positions in Jabal

Thardah, thereby helping ISIL to maintain its siege of Dayr al-Zawr.

105. **Mr. Mohamed Al-Thani** (Qatar) said that the representative of the Syrian regime had, as was customary, used the United Nations to slander responsible Member States in an effort to justify the fascist repression unleashed by the Syrian regime. The International, Impartial and Independent Mechanism for the Syrian Arab Republic had been established in order to ensure that any party violating human rights in Syria would be held accountable. The vast majority of such crimes, including several attacks using chemical weapons, were the work of the Syrian regime. Qatar reserved the right to make additional comments in writing at a later stage.

106. **Mr. Al Arsan** (Syrian Arab Republic) said that the representative of the Qatari regime was in no position to hold forth on the topic of legitimacy. While professing to oppose terrorism, Qatari officials had also expressed support for the Nusrah Front and suggested that their definition of terrorist groups differed from that of other actors. By pressing for the establishment of the Mechanism, the Qatari regime had sought to support terrorism and undermine the political process. The position of the Government of the Syrian Arab Republic on that topic had been made clear in the letter dated 20 February 2017 from the Chargé d'affaires a.i. of the Permanent Mission of the Syrian Arab Republic to the United Nations addressed to the Secretary-General (A/71/799).

The meeting rose at 6.15 p.m.

United Nations A/C.6/72/SR.8

General Assembly
Seventy-second session

Official Records

Distr.: General
31 October 2017

Original: English

Sixth Committee

Summary record of the 8th meeting
Held at Headquarters, New York, on Friday, 6 October 2017, at 10 a.m.

Chair: Mr. Gafoor ..... (Singapore)

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The meeting was called to order at 10.15 a.m.

Agenda item 84: The rule of law at the national and international levels (*continued*) (A/72/86 and A/72/268)

1. **Mr. Paudyal** (Nepal) said that his delegation attached great importance to the rule of law at the national, regional and international levels and firmly believed that it was the foundation of good governance, peace and stability. Nepal reiterated its unflinching adherence to the purposes and principles enshrined in the Charter of the United Nations and strongly upheld the principles of sovereign equality, peaceful co-existence, non-interference in the internal affairs of States, prohibition of the threat or use of force and peaceful settlement of international disputes. Nepal firmly believed in equal participation of all States in the international law-making process. The challenges posed by terrorism and transnational organized crime had increasingly undermined efforts to promote rule of law at the national and international levels. Such threats demanded increased and coherent international and regional cooperation.

2. Nepal was a party to 24 different human rights instruments and had incorporated them into its national legislation. In 2016, it had ratified the Paris Agreement on climate change. It had recently adopted two comprehensive new legislative texts, the criminal procedure code and the civil code, which had aligned existing laws with international legislation and practices and were aimed at strengthening the rule of law and ensuring accountability in the event of both civil and criminal liability.

3. The democratic and inclusive Constitution guaranteed the protection of human rights, adherence to the rule of law and the independence and competence of the judiciary. Promoting tolerance, respecting social and cultural diversity and ensuring the inclusion of all segments of society were deeply ingrained in the Constitution. Special measures had been taken to bring disadvantaged groups into the mainstream: institutions had been established to protect the rights of women, children, indigenous groups, minorities, Dalits, Madhesi and other disadvantaged groups. With a view to ensuring access to justice for all, the judiciary network had been expanded across the country and free legal aid services had been made available to those who could not afford legal expenses.

4. His delegation acknowledged the strong interrelationship between the rule of law and development and remained committed to the implementation of Sustainable Development Goal 16.

5. **Mr. Mikeladze** (Georgia) said that in December 2016, Parliament had adopted judicial reforms entailing clear guarantees of non-interference with judicial decisions, including through automatic and electronic distribution of cases to ensure the impartiality of court presidents when assigning cases to individual judges. Legal aid programmes were a central component of strategies to enhance access to justice. A new law reinforced social guarantees for public lawyers and ensured the independence, accountability and transparency of the legal aid service, which was now an independent institution accountable directly to Parliament. New legal consultation centres had been opened in mountainous areas and in regions populated by ethnic minorities. His country's goals were now to enhance citizen engagement and citizen-centred governance, advance transparency and the fight against corruption and generate innovation in public service delivery.

6. Georgia had been effectively cooperating with the International Criminal Court since the Prosecutor had announced the preliminary examination of the 2008 war situation in Georgia. As an enabling factor for full-fledged cooperation with the Court, Georgia had put in place adequate implementing legislation for the Rome Statute of the International Criminal Court. Georgia fully subscribed to the notion that without the rule of law and accountability, impunity reigned and neither justice nor peace could be achieved. Strengthening and promoting the rule of law was a common responsibility of the international community.

7. **Mr. Varankov** (Belarus) said that the provision of assistance in enhancing the rule of law must be based on an acknowledgement that a wide variety of arrangements might be used and must conform to the national priorities of Member States. Resident coordinators and other field representatives of the United Nations, who often had unique knowledge of specific local situations, took on a particularly important role as intermediaries between governments and the Secretariat. It was important to understand that United Nations support for national efforts to strengthen the rule of law did not mean that they should be replaced with universal models whose viability was dubious.

8. Ensuring the rule of law at the international level depended on unswerving adherence by the United Nations to the standards it itself promoted. Hence the importance of transparency and accountability in the functioning of the Secretariat and its funds and programmes. The recommendations contained in the review of the regulations to give effect to Article 102

of the Charter of the United Nations (A/72/86) were progressive and of practical value.

9. While acknowledging the growing importance of information technology in the publication of data on treaty registry, his delegation considered that the day-to-day work of staff in the Treaty Section of the Office of Legal Affairs to disseminate information on international law was of inestimable value.

10. A key role in his country's own efforts in that area was played by the Ministry of Foreign Affairs, which coordinated the adoption of international treaties and provided expertise on instruments drafted by other branches of the Government. In cooperation with the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Commission on International Trade Law (UNCITRAL), the Ministry regularly held conferences on international trade and investment law in order to enhance the understanding of those subjects among governmental experts, scientists and scholars, arbitral institutions and courts, and students. The Council of Ministers had a committee that was responsible for the coordination of government efforts to incorporate international humanitarian law into national legislation and to promote the dissemination of knowledge about international humanitarian law and its development.

11. **Mr. Musayev** (Azerbaijan) said that greater efforts were needed to ensure a unified approach to the rule of law and to address the major threats and challenges that continued to affect the basic elements of the international legal order. Under the principle of the peaceful settlement of disputes, States were expected to respect each other's sovereignty, territorial integrity and political independence and to refrain from the threat or use of force. Conflict prevention and settlement frameworks and mechanisms must not be used as a tool to entrench situations achieved as a result of aggression and ethnic cleansing or to promote solutions that were, a priori, illegal. Attempts to impose or encourage such solutions would fail to provide the foundations necessary for sustainable peace and long-term stability.

12. As the principal judicial organ of the United Nations, the International Court of Justice played an important role in promoting the rule of law and encouraging the settlement of international disputes by peaceful means. The Court's advisory opinions on legal questions could help to ensure that settlement efforts were in line with international law, especially in situations where actions in contravention of the Charter and international law were accompanied by apparent misinterpretation of legal norms and principles.

13. The need to shed light on real facts and to combat impunity was undeniable. Such efforts must be free of selectivity and politically motivated approaches. However, the harsh reality was that, where political interests prevailed, international law and commitments became ineffective. Double standards in the application of the principles guiding inter-State relations contributed to instability and obstructed conflict resolution efforts.

14. In some situations of armed conflict, including those of a protracted nature, issues of accountability for violations of international humanitarian and human rights law had not received due attention or a response at the international and regional levels. As a result, wrongs of the recent past, left unpunished and unrecognized, continued to impede progress in achieving long-awaited peace and reconciliation. Among the possibilities for ensuring accountability, the involvement of ad hoc and mixed tribunals, as appropriate, could benefit national efforts to pursue justice.

15. In conclusion, he recalled that, in order to achieve the goal of the rule of law, it was critical to uphold fundamental principles, adhere to the uniform application of international law and ensure strict compliance with international obligations.

16. **Ms. Bourhil** (Tunisia) said that in view of the current situation worldwide, marked by the proliferation of conflicts and global threats, it was essential to undertake all efforts conducive to placing the prevention of conflicts at the centre of United Nations actions, including through the strengthening of international, regional and subregional mechanisms for the peaceful settlement of disputes and the dissemination of international law.

17. Tunisia was steadily consolidating its progress towards incorporating the rule of law and establishing democratic institutions. The 2014 Constitution had marked a new chapter in modern Tunisian history, with the emergence of a democratic political system that upheld progressive principles and the separation of powers. It was with the aim of consolidating democracy under the Constitution that institutions had been set up a to ensure good governance and to combat corruption.

18. Important steps forward had recently been made to enshrine freedom of conscience and equality before the law. A law concerning the marriage of Tunisian women to non-Muslims, which had been contrary to the international conventions ratified by Tunisia and to the spirit of the Constitution, had been abrogated,

while a new law prohibiting all violence against women had been adopted.

19. Respect for the rule of law had an undeniable impact on reducing inequity, promoting gender equality and creating reputable and solid institutions. The report of the Secretary-General (A/72/268) outlined the impact of United Nations assistance to Tunisia's transitional justice mechanisms in promoting the rule of law; it also described joint work to strengthen the legislative arsenal concerning children's rights and improved access to justice for children. The United Nations played a pivotal role in promoting the rule of law, thanks to the platform it offered for new partnerships.

20. **Mr. Adejola** (Nigeria) said that his delegation commended the Office of Legal Affairs and its specialized divisions for their work to disseminate information on international law and treaty law and practice. The use for that purpose of the electronic treaty database and the organization of capacity-building seminars at different levels were helpful initiatives. The publication of bulletins on relevant legal materials had further strengthened and promoted an understanding of the principles of the rule of law.

21. Nigeria especially appreciated the work of the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, which had truly contributed towards better knowledge of international law. United Nations bodies whose mandates related to the law of the sea must work more closely with the Programme. In particular, the facilitators of the Programme should more extensively integrate issues relating to the International Seabed Authority in the Programme's content and help the Authority to reach out to different sectors of societies that did not yet fully understand and appreciate the importance of its work.

22. Adherence to and respect for the rule of law must reinforce collective responses to global challenges, including climate change, environmental protection and the settlement of conflicts. The rule of law was intrinsic to such topics as good governance, democratic practice, accountability, the fight against impunity, the protection of civilians in armed conflict, the situation of women and children, terrorism and transnational crimes. For those and other reasons, the promotion of the rule of law at the national and international levels should be a shared responsibility.

23. For Nigeria, the rule of law was a fundamental article in national jurisprudence and a pivotal principle of governance. The National Human Rights Commission had been established to create an enabling environment for the promotion, protection and enforcement of human rights in furtherance of the principles of the rule of law. The work of the various anti-corruption agencies was meant to ensure that due process was always observed and access to justice was available to all. Only recently, the Chief Justice had directed heads of court to set up what were essentially separate courts to try people accused of financial crimes.

24. His delegation underlined the need for national ownership of every effort aimed at strengthening the national capacities of Member States for the promotion of the rule of law and the provision of technical assistance and capacity-building towards that end. The international community must work together to attain a world where the rule of law, accountability and social justice were the foundation for sustainable development and durable peace.

25. **Mr. Waweru** (Kenya) said that the dissemination of international law had been greatly facilitated in the digital era by the vast array of tools and platforms offered by the Internet. The Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law played an important role, especially in the developing countries, and Member States should ensure that it received regular budget funding from the United Nations.

26. In order to be effective, capacity-building and activities related to the rule of law should be anchored by two principles, namely determining needs and priorities and local or national ownership. Those principles required partnership and mutual respect between the providers and recipients, while taking into account the customs, political and socioeconomic realities and laws of each recipient State.

27. The rule of law could not exist without a transparent legal system: laws that were freely and easily accessible to all, strong enforcement structures and an independent judiciary to protect citizens against the arbitrary use of power. The rule of law enabled people and institutions to fulfil their dreams and aspirations, individually and collectively. It could generate economic reform and unlock the social, political and economic potential of societies.

28. Local, regional and international governmental and judicial institutions should contribute to the rule of law by ensuring that the international legal instruments adopted by States were interpreted and implemented in a fair, just and predictable manner.

29. **Mr. Hasebe** (Japan) said that the essence of the rule of law lay in the supremacy of law over arbitrary

power and in ensuring that power was exercised to protect and benefit the people. The International Court of Justice, the International Tribunal for the Law of the Sea and the International Criminal Court were vital to ensuring the rule of law and the peaceful settlement of disputes, and Japan had provided both human and financial resources to support them.

30. His country had undertaken a broad range of rule of law support activities, both domestically and internationally. It had prioritized support for international rule-making and legal procedures in areas as diverse as trade, criminal justice and maritime law. In 2020, Japan was to host the fourteenth United Nations Congress on Crime Prevention and Criminal Justice, during which the priority areas would include institution-building to promote the rule of law and fostering a culture of lawfulness.

31. Turning to Japan's international assistance efforts, where rule-making met implementation on the ground, he said that his country had helped with capacity-building for the police in Cambodia and Timor Leste and was now working to strengthen criminal justice systems and rules-based local governance in West Africa and the Sahel.

32. **Mr. Arriola Ramírez** (Paraguay) said that his country was committed to the rule of law and had incorporated into domestic legislation a number of international legal and human rights instruments. Legislative texts were being developed with a view to the ratification of the Rome Statute of the International Criminal Court and the Kampala amendments. The United Nations had provided support for strengthening the Paraguayan legislative framework on environmental protection. An inter-agency coordinating committee on the achievement of the Sustainable Development Goals had recently been set up. At the international level, Paraguay had participated in negotiations on such subjects as the prohibition of nuclear weapons.

33. The rule of law was of vital importance in furthering the three pillars of the United Nations: international peace and security, human rights and development. It should be a tool to strengthen political dialogue among States, help find peaceful solutions to international disputes and combat impunity for international crimes.

34. **Mr. Sandoval Mendiolea** (Mexico) said that to speak of the rule of law was to speak of justice, good governance and accountability, but also of fostering just, peaceful and inclusive societies. He welcomed the fact that the Secretary-General's latest report (A/72/268) covered some of the current challenges to the rule of law, such as displacement and migration. More and more people worldwide, among them the thousands of Mexicans living outside the country, were being affected by policies and practices recently adopted by certain countries. Such actions must be reviewed in the light of international human rights standards. States that violated the human rights of migrants were repudiating the relevant treaty mechanisms and judicial processes. Mexico was also concerned over the recent events in Myanmar. Any use of force by the authorities must take place in compliance with international human rights standards, ensure the security and protection of all communities and uphold the rule of law without discrimination.

35. The International Court of Justice was instrumental in the prevention and peaceful solution of disputes, and its capacities in that area must be strengthened. The number of States that accepted its compulsory jurisdiction must be increased, provisions on jurisdiction must be included in treaties and the mechanism of *forum prorogatum* must be brought into play.

36. In addition to having signed the Treaty on the Prohibition of Nuclear Weapons, Mexico supported the negotiation of a legally binding instrument on the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, for which purpose the General Assembly must convene a conference in 2018.

37. Lastly, his delegation supported the idea of reviewing the regulations to give effect to Article 102 of the Charter, since some were now outdated owing to technological developments.

38. **Archbishop Auza** (Observer for the Holy See), recalling the emphasis placed by Pope Francis on the need to have a tangible impact on the most vulnerable and marginalized members of the human family, said that his delegation welcomed United Nations efforts to improve access to justice for populations that were disempowered and deprived of their rights, voice and representation. Such efforts included promoting access to mobile and specialized courts and to customary rural courts, which played an important role in local arbitration and community reconciliation. Justice must be made more effective and accessible, without discrimination. In that regard, further cooperation and mutual assistance among States and with international organizations were critical.

39. The international legal framework had been expanded into a range of areas, including climate change, biological diversity, human rights, trafficking in persons, corruption and arms control. However, real progress would occur only when States expanded their

focus beyond formal accession to international norms and ensured that the norms became a practical reality on the ground.

40. The rule of law could not be strengthened with a view to achieving justice unless those associated with legal institutions were able to perform their duties with independence and neutrality, free from pressure, harassment, corruption or persecution. His delegation noted with concern a widespread rise in retaliation and reprisals against lawyers and judges who strove to apply the law in the service of justice. In such cases, it was the very foundations on which the rule of law was built that were jeopardized.

41. **Mr. Bamya** (Observer for the State of Palestine) said that his delegation was often asked how Palestine would act once it became a member of the United Nations. The actions taken after the adoption, by an overwhelming majority, of General Assembly resolution 67/19 granting observer State status to Palestine were indicative of its values and objectives. One of the first decisions taken had been to join the core human rights conventions, with no reservations. Palestine had also acceded to conventions in such fields as international humanitarian law, disarmament, environment, the law of the sea and diplomatic and consular relations.

42. Since much work still needed to be done to improve its own accountability mechanisms, Palestine had entrusted international mechanisms with assessing violations and crimes in Palestine without restrictions. It had pursued the establishment of fact-finding and inquiry commissions by the Human Rights Council and joined the International Criminal Court, contributing to its indispensable universality. In all those efforts, Palestine's message was clear: "We seek justice, not vengeance."

43. The State of Palestine had been among the first to ratify the Paris Agreement on climate change. It had been the thirtieth State to ratify the Kampala amendments on the crime of aggression, thus fulfilling one of the two requirements to allow for activation of the International Criminal Court's exercise of jurisdiction over that crime. More recently, Palestine had participated in the conference to elaborate a treaty to prohibit nuclear weapons, had voted for its adoption and had been among the countries that had signed the treaty on the first day it had been open for signature.

44. The State of Palestine had established a ministerial committee to ensure respect for the international instruments it had acceded to, and had also set up a subcommittee to enhance its efforts to replace a fragmented, often outdated legislative reality inherited from several historical eras with legislation compatible with its declaration of independence and with international law. The Independent Commission for Human Rights, one of the most respected in the region and the world, chaired national consultations over the State's reports to treaty bodies on the implementation of human rights conventions. Civil society organizations were fully associated with the Commission's work.

45. The State of Palestine had also decided to set up a national committee for international humanitarian law in order to foster respect for the Geneva Conventions of 1949, their additional protocols and all other relevant instruments. It had disseminated the texts of the Conventions to the public, through official and non-official institutions, and had made a simplified version of the Universal Declaration of Human Rights available to all schools. However, true dissemination was not of the texts, but of the spirit, with the aim of empowering people to know, claim and defend their rights and to ensure that the legislative, executive and judiciary branches were committed to protecting those rights.

46. The State of Palestine was still under military and colonial occupation but had taken the bold decision not to wait for independence in order to uphold its international obligations. It was an integral member of the community of nations, committed to the advancement of humankind, inspired in that effort by the tragedies it had endured and continued to endure and by the hope to achieve freedom and dignity for all in Palestine.

47. **Mr. Civili** (Observer for the International Development Law Organization (IDLO)) said that in the past year his Organization had adopted a new strategic plan built around two overarching themes: access to justice together with equality and inclusion. Its main thrust was to address the underlying factors that made institutions and people vulnerable, impeded socioeconomic progress and its sustainability and perpetuated inequalities, gender violence and discrimination, social exclusion and marginalization. It was, in other words, a vision of the rule of law that sought to advance the objectives of access to justice and constructing peaceful, inclusive societies.

48. IDLO was pursuing the new plan while remaining faithful to the principles that had always guided its work: respect for the plurality and equal value of different legal systems; a focus on national implementation of international law and international norms; and capacity-building and country ownership as a guiding tenet of operational work. Its portfolio of

programmes had continued to expand during the past year, becoming more geographically balanced and increasingly results-focused. There were currently some 60 projects under implementation in 28 countries, with some €100 million having been allocated to countries at different stages of development, but with a continuing focus on the provision of institutional support to countries emerging from conflict. Meanwhile, the Organization's membership had been steadily growing, from 18 in 2008 to an anticipated 34 by the end of 2017.

49. The conference organized in June 2016 in Dar es Salaam by IDLO and the Government of the United Republic of Tanzania and with the support of the Government of Italy had proved to be instrumental in imparting a new momentum to activities in support of sustainable development in Africa and in generating synergy and mutual support among African countries in furthering access to justice and the rule of law. An excellent example was the establishment of the African Centre of Excellence for Access to Justice, intended to promote collaboration and dialogue between the judiciary and community justice institutions in Africa.

50. An innovative initiative devoted to addressing the special needs of the least developed countries was the Investment Support Programme for the Least Developed Countries, conceived as a genuine public-private partnership for the provision on demand, on a pro bono or reduced-fee basis, of legal services in the negotiation of investment contracts or agreements and in investment-related dispute resolution. The European Union had pledged an initial €1 million in support of the Programme, and a significant number of legal firms and experts worldwide had indicated their readiness to partner with it.

51. IDLO strongly supported measures towards greater effectiveness, coherence and sustainability in international rule of law activities within the United Nations and, although the Organization was not formally part of the United Nations system, it was ready to contribute actively to that effort.

52. **Ms. Gottlieb** (Observer for the International Chamber of Commerce (ICC)), noting that it was the first time that the International Chamber of Commerce was participating in the Sixth Committee's meetings since gaining observer status in the General Assembly, said that respect for the rule of law was the foundation for cooperation among all nations. Delegates from developing States with limited resources had indicated that assistance that went beyond access to international law was imperative. Training, workshops and bilateral or multilateral assistance which furthered the understanding and application of the rule of law would greatly accelerate compliance with international law.

53. One innovative capacity-building initiative was the Investment Support Programme for the Least Developed Countries just referred to by the representative of IDLO. Her organization was ready to explore how best the private sector could collaborate with IDLO and other stakeholders to contribute to the success of the programme. Such inclusive initiatives that maximized the potential of partnerships would complement and strengthen the work of the United Nations.

54. The United Nations played an essential role in fostering international law in response to complex and difficult global challenges such as climate change. ICC looked forward to finding innovative ways to enhance private sector engagement and to establish genuine and durable partnerships with various stakeholders.

55. **Mr. Yaremenko** (Ukraine), speaking in exercise of the right of reply, said that in the context of the rule of law, he could have talked of many things. He could have talked about the international multilateral and bilateral agreements violated by Moscow; the decision to use the armed forces of the Russian Federation on the territory of Ukraine; the Russian President's initial claim, subsequently retracted, that no Russian armed forces had ever been present in the territory of Ukraine; the dozens of Russian soldiers captured in the territory of Ukraine, documentary evidence of which had been presented by the President of Ukraine during a recent Security Council meeting; and a number of other legal points. However, he simply wished to explain to the delegation of the Russian Federation that Ukraine would continually raise the issue of Russian aggression until the aggression ceased. He appealed to the representatives of the Russian Federation to think about how they would explain Russia's actions of the past few years to their children and grandchildren. Was it really appropriate for them to rejoice in having stolen a part of a neighbouring country's territory?

Agenda item 78: Criminal accountability of United Nations officials and experts on mission
(A/72/121, A/72/126, A/72/205)

56. **Mr. Al Habib** (Islamic Republic of Iran), speaking on behalf of the Non-Aligned Movement, said that the Movement attached great importance to the issue of criminal accountability of United Nations officials and experts on mission. The countries of the Non-Aligned Movement contributed more than 80 per cent of the peacekeeping personnel in the field and were also the major beneficiaries of peacekeeping

missions. Peacekeeping personnel must continue to perform their duties in a manner that preserved the image, credibility, impartiality and integrity of the Organization. The Movement emphasized the importance of maintaining a policy of zero tolerance in addressing all cases of sexual exploitation and abuse committed by peacekeeping personnel.

57. Full implementation by all Member States of General Assembly resolution 71/134 and previous General Assembly resolutions could help close jurisdictional gaps, strengthen accountability mechanisms and contribute to guaranteeing due process with respect to investigations of sexual exploitation and abuse. Member States should exercise their jurisdiction in applicable cases to ensure that criminal acts did not go unpunished. It was crucial that the State of nationality acted in a timely manner to investigate and prosecute alleged crimes. All States must provide information to the United Nations on any such referrals. An assessment of the need for any further measures by the General Assembly could subsequently be undertaken. Important policy and remedial measures had been agreed but must still be implemented. Progress must also be made on short-term measures.

58. The Non-Aligned Movement was concerned about alleged crimes on the part of United Nations officials and experts on mission, including allegations of corruption and other financial crimes. The Secretary-General should continue to ensure that his zero-tolerance policy for criminal activities, including sexual exploitation and abuse and corruption, was made known to all United Nations personnel on mission, especially those in managerial positions. States must take all appropriate measures to ensure that such crimes did not go unpunished and that the perpetrators were brought to justice.

59. It was still premature to discuss a draft convention on criminal accountability of United Nations officials and experts on mission. For the time being, the Committee must focus on substantive matters and leave matters of form for a subsequent stage.

60. **Mr. Bessedik** (Algeria), speaking on behalf of the African Group, said that the Group supported the Secretary-General's zero-tolerance policy with regard to criminal conduct, especially sexual exploitation and abuse, by United Nations officials or experts on mission. Criminal accountability was a pillar of the rule of law, and it was crucial to the Organization's integrity, effectiveness and credibility. A clear signal must be sent that criminal behaviour was not tolerated. Member States should exercise jurisdiction in applicable cases to ensure that criminal acts did not go unpunished.

61. Jurisdictional gaps, in situations where the host State was unable to exercise its jurisdiction with respect to an alleged offender and the State of nationality of the alleged offender could not assert its jurisdiction over crimes committed in the host State, could be remedied by the measures adopted in several General Assembly resolutions, if properly implemented. While some Member States expressed a preference for a predominant role to be played by the host State, the African Group and other States preferred to emphasize the role of the State of nationality. The United Nations was to be commended for its efforts to refer cases of possible crimes of a serious nature to the State of nationality.

62. The African Group welcomed the steps taken by the United Nations to provide training on standards of conduct, including predeployment and in-mission induction training and awareness-raising programmes, as well as the technical assistance offered by the United Nations to States requesting support in developing their domestic criminal law. United Nations expertise went a long way towards developing and strengthening national capacities to investigate and prosecute serious crimes, especially in the context of mutual legal assistance and extradition. The Group encouraged States to cooperate with each other in criminal investigations and extradition proceedings involving serious crimes committed by United Nations officials and experts on mission.

63. **Mr. Jaime Calderón** (El Salvador), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that any misconduct, especially criminal behaviour, committed by United Nations personnel on mission was unacceptable. Such acts were particularly serious because of the nature of the perpetrators' functions and the vulnerability of the victims; moreover, they undermined the image, credibility, impartiality and integrity of the United Nations.

64. CELAC took note of the reports of the Secretary-General on criminal accountability of United Nations officials and experts on mission (A/72/121, A/72/126 and A/72/205).

65. CELAC was aware of allegations, as in previous years, of sexual abuse and excessive use of force by some peacekeepers. The international community must do much more to ensure that such crimes did not go unpunished. CELAC reiterated its full support for a

zero-tolerance policy in cases of sexual exploitation and abuse and other criminal conduct.

66. CELAC drew attention to the report of the Secretary-General of 28 July 2017 (A/72/205), Section IV of which dealt with cooperation among States and with the United Nations in the exchange of information and the facilitation of investigations, and the protection of witnesses in that process. He also stressed the importance of receiving continuous statistics from the Secretariat on substantiated allegations. Improving on the reporting practice would benefit the understanding of the problem so that it could be properly addressed. The Secretariat should continue to work to improve the quality of information regarding possible criminal offences and to communicate such information immediately to the States concerned. The reporting process must be implemented effectively and efficiently.

67. CELAC urged States to which cases had been referred to ensure proper follow-up and to inform the Secretary-General of the actions taken by national authorities, including prosecution where appropriate; for its part, the Organization should likewise follow up on those actions.

68. The Secretary-General and all Member States shared responsibility for taking measures to prevent and punish criminal acts committed by United Nations personnel and to enforce standards of conduct. It was important to continue the dialogue with the Secretariat on the training and capacity-building of United Nations officials and experts on mission, and to take steps to prevent the abuse of privileges and immunities.

69. CELAC looked forward to the results of the implementation of the accountability framework developed by the Secretariat to measure the performance of field missions in connection with indicators relating to conduct and discipline. Attention should also be given to addressing other challenges, such as investigations in the field and during criminal proceeding, and the gathering and assessment of evidence in administrative and jurisdictional procedures, which must be conducted bearing in mind the interests of the alleged victims and the right of the accused to due process. United Nations personnel must comply with United Nations policy guidelines regarding their expected standards of conduct, including those set out in documents A/67/775 and A/67/828.

70. **Ms. Aching** (Trinidad and Tobago), speaking on behalf of the Caribbean Community (CARICOM), said the Community was deeply appreciative of the sacrifices and tireless efforts of United Nations experts and officials on mission. In the CARICOM region, Haiti had benefited immensely from the United Nations Stabilization Mission in Haiti (MINUSTAH), which had assisted Haitian authorities in such areas as electoral support, strengthening of the rule of law, human rights monitoring and training of the National Police.

71. CARICOM underlined the importance of ensuring respect for the rule of law, consistent with General Assembly resolution 71/134. The privileges and immunities of United Nations officials and experts on mission were for their protection and were certainly not to be used as licence to commit crimes with impunity.

72. The Community expressed deep concern and abhorrence over cases of misconduct and sexual abuse of women and children by United Nations officials and experts on mission. The exploitation of the most vulnerable by persons sent to protect them was a fundamental betrayal of trust, further compounded when the perpetrators were not brought to justice. CARICOM therefore welcomed the Secretary-General's commitment not to tolerate the commission or condoning of sexual exploitation and abuse. The Community urged him, consistent with resolution 71/134, to continue to ensure that his zero-tolerance policy for criminal activities such as sexual exploitation was fully implemented in a coherent manner throughout the United Nations system.

73. With a view to ensuring that those accused of committing such offences were brought to justice, States which had not yet done so must establish jurisdiction over crimes committed by nationals while serving on missions. CARICOM urged States to adopt the necessary measures to ensure that internal disciplinary mechanisms were in place and were harmonized with United Nations standards of investigation in order to support better action by local authorities. Perpetrators of such heinous crimes must be held accountable for their actions. CARICOM also urged States to cooperate in providing assistance with criminal investigations or extradition proceedings with respect to crimes of a serious nature committed by United Nations officials and experts on mission as well as in ensuring the protection of victims. All cases of suspected misconduct or criminal offences must be reported.

74. Consistent with General Assembly resolution 71/134, CARICOM underlined the need to ensure that all personnel were properly vetted by contributing States and the Organization for any prior misconduct while serving on previous missions. Personnel and

experts on mission must receive training on the need to respect the laws of the host State and United Nations standards of conduct, and they must be made aware of the consequences of failing to do so. CARICOM commended the United Nations for its efforts in that regard.

75. The Community reiterated the importance of abiding by the principles of international law, due process and the Organization's rules and regulations when dealing with any allegation of misconduct or criminal offence committed by United Nations personnel on mission.

76. **Ms. Mezdrea** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Montenegro, Serbia, Turkey and the former Yugoslav Republic of Macedonia and, in addition, Georgia, the Republic of Moldova and Ukraine, said that the European Union was concerned about crimes committed by United Nations officials and experts on mission, including sexual exploitation and abuse, corruption, fraud and other financial crimes. It continued to support the Organization's policies of zero tolerance and zero impunity for sexual exploitation and abuse by United Nations military, police and civilian personnel. Impunity was detrimental to the credibility and effectiveness of the United Nations; it undermined the trust of local communities and deprived victims of justice.

77. The primary responsibility for bringing perpetrators to justice rested with Member States. The State of nationality of an alleged offender must be promptly informed and consulted by the United Nations; that State must act in a timely manner, establish and exercise jurisdiction, investigate and, where appropriate, prosecute. The European Union regretted that the majority of referrals of allegations since 2008 remained outstanding, as little or no information had been forthcoming from the States of nationality. All States must provide information on referrals as soon as possible, including the reasons why investigations and/or prosecutions had not been pursued. The United Nations cooperated with law enforcement and judicial authorities. States exercising jurisdiction should make use of that framework of cooperation and ensure that referred cases were acted upon by the competent authorities. The European Union welcomed the follow-up on referrals by the Secretariat in 2017 and urged that the practice be continued.

78. Training on United Nations standards of conduct was an indispensable preventive measure. The European Union welcomed the efforts to support strengthening activities in that area, such as predeployment and in-mission training of personnel on human rights, international humanitarian law, gender-based violence and civilian protection. It also welcomed the mandatory e-learning programme on sexual exploitation and abuse launched at the end of 2016 and commended the awareness-raising efforts of the Department of Field Support aimed at increasing understanding and knowledge of the standards of conduct and discipline as well as transparency and clarity in the presentation of data.

79. She noted that the report of the Secretary-General of 29 June 2017 (A/72/121) referred to the existence of several rules and procedures and of different reporting mechanisms due to fragmentation within the United Nations system. In such a context, it was difficult to get a clear picture of United Nations accountability mechanisms. Such mechanisms should be streamlined with the aim of unifying and harmonizing criteria, policies and procedures and determining potential gaps across the entire system. The strongest and most effective mechanisms should be adopted to tackle criminal activities by United Nations officials and experts on mission.

80. The European Union was concerned by the increasing number of allegations of corruption, fraud and theft, which represented 32 of the 38 newly referred cases during the current reporting period. Such actions meant that the Organization's funds were being stolen or diverted from its efforts to promote peace, security and sustainable development. She encouraged the Secretariat to continue promoting a culture of integrity and honesty within the Organization, including by providing guidance and information to staff members and other personnel on how the Secretariat acted to prevent, detect, deter, respond to and report on fraud and corruption. In that respect, the European Union welcomed the Secretary-General's approval of an updated United Nations whistle-blower policy to enhance protection for individuals who reported possible misconduct or cooperated with duly authorized audits or investigations.

81. The European Union remained ready to consider a proposal for a comprehensive international legal framework to clarify the circumstances under which Member States could exercise jurisdiction and the categories of individuals and crimes subject to that jurisdiction. To assess that possibility, more information should be provided by the Member States and the Secretariat. The European Union commended the Secretariat's efforts to gather such information and encouraged all Member States to respond as soon as possible.

82. **Ms. Neilson** (New Zealand), speaking also on behalf of Australia and Canada, said that United Nations officials and experts on mission played an important role in creating the conditions for lasting peace. They were trusted to use their positions of relative power to assist thousands of the most vulnerable people in the world. However, the deplorable acts of a few, and the failure to hold them accountable, intensified the suffering of the people they were charged to protect and undermined the reputation, credibility and integrity of the United Nations.

83. Although the issue had been under discussion for eleven years now, significant change was yet to be seen. Sexual exploitation and abuse, corruption, fraud and other financial crimes remained far too common. In 2017, 35 allegations had been referred to Member States for investigation — the greatest number of referrals per annum so far. It would be useful to learn whether that increase was due to a greater number of alleged crimes or to improvements in the referral processes. A number of United Nations officials and experts on mission had benefited from near total immunity because of the failure of both Member States and the Secretariat to develop adequate accountability processes.

84. The three countries commended the Secretariat for the compilation of relevant United Nations policies and procedures. It would be useful to undertake further analysis to assess how those policies and the interaction between them could be improved. The table of national provisions on extraterritorial jurisdiction (A/72/126, sect. II) was useful. Although both the territorial State and the State of the nationality of any victims could have jurisdiction, it was the State of nationality of the perpetrator that had the primary responsibility to investigate and prosecute credible allegations of criminal misconduct by United Nations officials and experts on mission.

85. Member States that had not yet done so should consider establishing jurisdiction for such cases, and all Member States should investigate allegations of criminal conduct by their nationals, hold perpetrators accountable, including through prosecution, and report on efforts made in that regard. They should also take preventive steps, such as predeployment training and screening. States should provide information on any obstacles to effective prosecution that they might encounter, whether jurisdictional, evidentiary or otherwise.

86. In closing the impunity gap, Member States and the United Nations must develop a culture in which the reporting of alleged crimes was encouraged and safeguards against retaliation were established.

87. The three countries supported, in principle, the proposal for a convention that would require Member States to exercise criminal jurisdiction over nationals serving in United Nations operations abroad, and they reiterated their call for continued implementation of the Secretary-General's zero-tolerance policy. No one should be above or outside the law.

88. **Mr. Kravik** (Norway), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that, although the topic of criminal accountability of United Nations experts and officials had been on the Sixth Committee's agenda since 2006, its importance had not diminished; hence the need for both the United Nations and Member States to enforce a zero-tolerance policy for such crimes. The United Nations had taken important and timely steps over the past two years, such as the establishment in 2016 of the Office of the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse and the Secretary-General's 2017 strategy to improve the system-wide approach to preventing and responding to sexual exploitation and abuse. Such steps could bring about change, but much still remained to be done before the Organization had fully implemented a zero-tolerance policy.

89. Principal attention was rightly placed on sexual exploitation and abuse, but any kind of criminality on the part of United Nations officials and experts on mission needed to be addressed, and effective measures for ensuring responsibility were imperative. Contributing States had primary responsibility for ensuring or establishing jurisdiction for serious crimes committed by their nationals while serving on United Nations missions. The Nordic countries encouraged all Member States to submit information to the Secretariat on the status of their domestic legislation in that regard, in accordance with General Assembly resolution 71/134.

90. The Nordic countries suggested the elaboration of a policy on minimal requirements for States that contributed officials and experts to United Nations missions. An essential requirement should be that all contributing countries must have the jurisdiction in place to be able to investigate and prosecute crimes committed by their personnel serving abroad. The Nordic countries remained ready to consider a proposal for a comprehensive international legal framework to ensure that such criminal conduct was addressed.

91. The Secretary-General's report of 28 July 2017 (A/72/205) showed that, since 1 July 2007, of the 124

cases referred to Member States, the latter had provided information to the Secretary-General on follow-up in their national jurisdictions in only 24 instances. That illustrated a general tendency not to handle such cases adequately, something which was totally unacceptable. On the positive side, however, the Secretary-General had received information on the status of investigations or prosecutions in 27 cases.

92. The resolution on the item must be amended to ensure inclusion in the report of information concerning which Member States had — and even more importantly which Member States had not — provided any feedback to the Secretary-General on follow-up.

93. It was vital to ensure accountability for persons who committed crimes while serving as United Nations experts and officials. The very credibility of the Organization was at stake. Anything less than full transparency regarding Member States' willingness and ability to hold their own nationals accountable for crimes committed while in the service of the United Nations was unacceptable. All Member States must uphold the principles of due process and the rule of law while investigating and prosecuting such cases, and it was equally important to ensure the effective protection of victims, witnesses and whistle-blowers.

94. **Ms. Carnal** (Switzerland), also speaking on behalf of Liechtenstein, said the two countries welcomed the fact that the Secretary-General's report of 12 July 2017 (A/72/126) provided specific information on the follow-up to criminal allegations. It was particularly gratifying to note that the Secretariat had followed up with the States concerned several times during the past year: that practice should be continued. The report also brought together previously dispersed information on how Member States exercised jurisdiction over their nationals who served as United Nations officials or experts on mission. However, given that only 57 States had provided feedback since 2007, the information remained incomplete. In an effort to shed further light on the issue, Switzerland had commissioned an independent study on the national rules in effect in 20 representative countries. It contained information on 12 States not included in the Secretary-General's report and would be made available to the Secretariat.

95. The Secretary-General had also prepared a report, dated 28 July 2017, on the policies and procedures regarding credible allegations that revealed that a crime might have been committed by an official or expert on mission (A/72/205). It turned out that criminal allegations were handled differently from one United Nations entity to the next, creating challenges for victims who wished to report a crime. Moreover, as noted in paragraphs 7 to 14 of the report, the different reporting mechanisms produced partially overlapping statistics, which made it difficult to produce an overview of all the cases potentially involving the accountability of United Nations officials and experts on mission.

96. A number of measures should be examined in order to improve the situation. A single report should compile information on all cases of crimes alleged to have been committed by United Nations officials and experts on mission, and not only information on cases referred to the State of nationality or notified by the States themselves. The policies and procedures for handling criminal allegations should be either unified or at least harmonized for all United Nations entities, which should systematically report to the Secretary-General any information in their possession about crimes that might have been committed by their staff. That would also enable the alleged victims to know the procedure to be followed.

97. The criteria used to determine whether a case should be referred to a State should be defined clearly and consistently in each entity. More emphasis should be placed on following up on cases referred to States, and the information should be collected in one place. Measures should be taken in each entity so that people who reported crimes were effectively protected, and the vetting of staff should be bolstered across the board. Finally, it was important to deliver a coherent and comprehensive response that covered all types of crime and all United Nations staff. The focus was currently on exploitation and sexual abuse, as well as on military personnel, but measures should be applied to other types of crimes as well, including financial ones, and to both civilian and police personnel.

98. An international convention could make it easier to prosecute the perpetrators of crimes in certain situations, but other concrete measures could be taken immediately, in the interests of the entire staff of the United Nations and of the Organisation itself.

99. **Mr. Umasankar** (India) said that his delegation welcomed the initiatives taken by the Secretary-General to address concerns over incidents of sexual exploitation and abuse reportedly committed by certain individuals involved with United Nations peacekeeping operations. India had been the first country to contribute to the trust fund set up in 2016 to assist victims of sexual exploitation and abuse and had made a contribution in 2017 as well.

100. A solution to the problem of accountability had remained elusive because of the complex legal aspects of the sovereignty and jurisdiction of Member States, the immunity or privileges that might be required for United Nations operations in a country and the functional capacity or willingness of Member States to investigate and prosecute the accused. The United Nations itself could take only disciplinary measures and did not exercise criminal jurisdiction. It was unclear whether investigations conducted by the United Nations could be accepted as evidence in criminal proceedings in the courts of a Member State. The United Nations itself appeared to be reluctant to waive immunity, even for serious misconduct by its personnel while serving on its missions.

101. His delegation would like to receive data from the Secretariat on the total numbers of registered cases of serious misconduct committed by United Nations personnel in the following circumstances: where the host Government asked for the waiver of the immunity of United Nations personnel, where the United Nations refused to waive the immunity of personnel, where the United Nations had asked the sending State or host State to prosecute its personnel, where the United Nations had consulted the sending State before waiving the immunity of their personnel and where the sending State had refused to accept a request by the United Nations for the waiver of the immunity of that State's nationals.

102. Member States that did not assert extraterritorial jurisdiction over crimes committed abroad by their nationals should be encouraged and assisted in updating their national laws to provide for such jurisdiction and to prosecute any misconduct of their nationals serving as United Nations officials on mission abroad. Such laws should also provide for international assistance for the investigation and prosecution of the crimes committed.

103. India's Penal Code and its Code of Criminal Procedure had provisions for addressing extraterritorial offences committed by nationals and for seeking and providing assistance in criminal matters. The Indian Extradition Act of 1962 dealt with extradition of fugitive criminals and allowed for extradition under a bilateral treaty or international convention.

104. A zero-tolerance policy for any criminal acts committed by United Nations personnel must be implemented, and measures to enforce accountability must be further strengthened so that no such crimes went unpunished and the image and work of the United Nations were not tarnished.

The meeting rose at 1 p.m.

United Nations A/C.6/72/SR.9

General Assembly
Seventy-second session

Official Records

Distr.: General
27 October 2017

Original: English

Sixth Committee

Summary record of the 9th meeting
Held at Headquarters, New York, on Friday, 6 October 2017, at 3 p.m.

Chair: Mr. Horna (Vice-Chair) ..... (Peru)

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In the absence of Mr. Gafoor (Singapore), Mr. Horna (Peru), Vice-Chair, took the Chair.

The meeting was called to order at 3.05 p.m.

Agenda item 78: Criminal accountability of United Nations officials and experts on mission (*continued*) (A/72/121, A/72/126 and A/72/205)

1. **Mr. Arrocha Olabuenaga** (Mexico) said that the subject under discussion could not be treated as just another item on the agenda, in view of its profound legal and political implications. The compilation of information provided by Member States on the grounds on which they established jurisdiction over crimes of a serious nature committed by their nationals while serving as United Nations officials or experts on mission and contained in the report of the Secretary-General on the criminal accountability of United Nations officials and experts on mission of 28 July 2017 (A/72/205) was a tool that could be useful for sharing good practices in the treatment of such persons; Member States that had not yet shared the relevant information were urged to do so. While his delegation was pleased that the report contained data on all allegations and information received from States since 2007, it was concerned that, of the 124 allegations of such crimes reported, information on the measures taken by States to investigate them had been provided in only 24 cases. It was also noteworthy that, according to the information received from States, only 3 of the 27 investigations or prosecutions of crimes alleged to have been committed by such officials or experts since 1 July 2016 had resulted in convictions and sentences. It would be useful in future, in the interests of stronger accountability, for such reports to give detailed information about the measures taken upon such allegations by both the sending State and the receiving State, the duration and outcome of the investigation and any disciplinary measures taken by the United Nations.

2. Mexico also welcomed the report of the Secretary-General on criminal accountability of 29 June 2017 (A/72/121), which contained information on United Nations policies and procedures regarding credible allegations of such crimes and commended the Secretary-General for his new approach to the particularly sensitive matter of measures for protection from sexual exploitation and abuse, outlined in his report on the subject (A/71/818) and as reflected in four main areas of action aimed at putting victims first. It remained a matter of concern that the number of complaints of sexual exploitation and abuse had increased from 2015 to 2016 and that the majority of victims were girls and women. The increase was largely due to measures taken to encourage victims and witnesses to come forward, but it also reflected the persistence of such practices. It was also worrying that in 2016 there had been 103 allegations against the personnel of nine peacekeeping operations and four special political missions, 50 per cent of which related to the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). Mexico supported the zero-tolerance policy toward such crimes. States listed in the Secretary-General's annual reports on children and armed conflict and on sexual violence should not be allowed to supply troops for such operations so long as they remained on those lists. Likewise, and in accordance with Security Council resolution 2272 (2016), the Secretary-General should repatriate troop or police units in cases where there was credible evidence against them of widespread or systemic sexual exploitation or abuse and should determine whether a Member State had taken appropriate steps to investigate and bring to justice the perpetrators of such acts. Mexico had signed the Secretary-General's voluntary compact aimed at eliminating sexual violence and abuse, thereby adding its voice to a strong and welcome public commitment to the criminal accountability of United Nations officials and experts on mission.

3. **Mr.** Elsadig Ali Sayed **Ahmed** (Sudan) said that his delegation was deeply concerned about the continuing allegations of sexual exploitation and abuse, physical assault and killings by members of peacekeeping missions. The statement in the Secretary-General's report (A/72/121) to the effect that no information on investigations had been received from Member States showed that there were gaps in the reporting, submissions, responses and feedback between the host State, contributing countries and the United Nations, which could lead to impunity.

4. Criminal accountability of United Nations officials and experts on mission, including those working in peacekeeping operations, was of great importance. A zero-tolerance policy must be applied, and any crimes committed by them, including sexual exploitation or abuse or fraud, must be punished in accordance with the principles of justice and international law. Member States must not allow the special status enjoyed by United Nations officials and experts on mission to shield them from criminal accountability and punishment for their conduct, in particular when the host State was unable to prosecute them. His delegation welcomed the introduction of procedures to train staff in the United Nations standards of conduct before their deployment on

mission. It also welcomed the provision through the United Nations of technical assistance for Member States with a view to developing law enforcement institutions and domestic criminal law.

5. His Government had introduced a number of laws at the domestic level to ensure the necessary security and judicial investigations and to prosecute persons accused of such crimes. The Sudan had acceded to many international multilateral instruments and bilateral agreements on judicial assistance.

6. There was a need for concrete procedures to bring perpetrators to justice. Not only must justice be done, it must also be seen to be done. The immunities and privileges enjoyed by international personnel must not prevent host States with jurisdiction from bringing perpetrators to justice for crimes committed on their soil. It was imperative to introduce standard procedures which waived the immunity of the perpetrators, especially when they had temporary contracts for particular programmes in the host State.

7. **Ms. Kremžar** (Slovenia) said that while United Nations officials and experts on mission had an important and indispensable role to play, they must respect international law and host countries' laws. In championing its own values and fighting for a safer and better world, the United Nations must also uphold moral principles and accountability. The Organization must therefore maintain a zero-tolerance policy towards criminal offences committed by such personnel. Her country welcomed the new approach to the prevention of sexual exploitation and abuse proposed by the Secretary-General in his report on the topic (A/71/818), attaching special importance to ending impunity and to prevention through education. Slovenia had expressed its political commitment to the joint efforts of the United Nations and Member States to eliminate such practices by signing the Secretary-General's voluntary compact to that end. The United Nations must indeed comply with the standards that it imposed on others: it was to be commended for doing so, notably for the recent finalization of the Anti-Fraud and Anti-Corruption Framework of the United Nations Secretariat, which had assumed particular importance over the past year. As a Member State with nationals serving as experts on missions, Slovenia recognized that the primary responsibility to investigate and prosecute rested with individual Member States. Nevertheless, cooperation between the United Nations and Member States was indispensable if jurisdiction was to be exercised over alleged offenders. Preventive measures were essential and it was therefore considered a priority in her country to train all personnel before their deployment to missions, to make them more aware of their obligations to comply with all relevant international and national standards.

8. **Ms. Chernysheva** (Russian Federation) said that the preventive measures developed with the participation of the General Assembly were, on the whole, adequate to address the problem of crimes committed by individuals serving with the United Nations. Any investigation of United Nations personnel should be carried out in strict compliance with the norms of international law, with the leading role in establishing jurisdiction being played by the State of nationality of the official. While due account must be taken of the special legal status of such personnel, they must not under any circumstances be exempted from accountability for crimes they committed while on mission. At the same time, they must not be punished unfairly and without due process.

9. The Secretariat must inform States in full and without delay of cases in which their nationals serving with the United Nations were suspected of crimes. Moreover, United Nations officials and experts on mission should be provided with appropriate training with a view to preventing criminal conduct.

10. **Mr. Celarie Landaverde** (El Salvador), referring to the collective and unanimous position of Member States, as expressed in General Assembly resolution 71/297, that one substantiated case of sexual exploitation and abuse was one case too many, said that his delegation welcomed the Secretary-General's determination to fully implement the zero-tolerance policy for such practices. United Nations officials and experts on mission made a significant contribution to fulfilling the purposes and principles enshrined in the Charter, the very importance of which required them to comply consistently with international standards and the rule of law. It was also essential that they should preserve the image, credibility, impartiality and integrity of the United Nations.

11. El Salvador had signed the Secretary-General's voluntary compact to put an end to sexual abuse and exploitation which, while not being legally binding, represented a joint declaration of intent to eliminate that scourge. In cases where required standards of conduct were not met, and particularly where serious crimes were involved, it was the duty of States to ensure that they did not go unpunished and to cooperate in bringing their perpetrators to justice. Nationals of his own country participating in United Nations missions were made aware of their obligation to comply both with applicable international norms and with the laws and customs of the country of assignment. Indeed, because of the importance of

preventive measures, nationals of El Salvador were vetted before deployment by the military authorities and were given training in respect of the strict standards of conduct to be upheld. His country considered there to be a legal duty to prevent the commission of crimes by United Nations officials and experts on mission and, in cases where they occurred, to investigate them and exercise jurisdiction over them.

12. **Ms. Premabhuti** (Thailand) said that criminal accountability was a requirement for advancing and sustaining the rule of law and that impunity for crimes committed by United Nations officials or experts on mission undermined the integrity, credibility and effectiveness of the entire Organization. Thailand accordingly supported the effective implementation of the zero-tolerance policy for such crimes and had put in place a solid policy and a complete internal legal framework to ensure the criminal accountability of its nationals, including those serving as United Nations officials or experts on mission. The Thai Criminal Code established jurisdiction for serious criminal offences committed by Thai nationals outside the national territory. Internationally, Thailand recognized the crucial need to cooperate closely with other countries to make up for any jurisdictional gaps in order, through mutual legal assistance and extradition, to facilitate the investigation of crimes and prosecute their perpetrators.

13. For prevention purposes, Thailand also remained convinced of the importance of predeployment training, in-session induction and strict compliance with the United Nations standards of conduct. As a troop-contributing country, Thailand appreciated the ongoing efforts of the Department of Peacekeeping Operations and the Department of Field Support in that regard. It included both men and women among its nationals serving in peacekeeping operations and called on all Member States to give women an increased role in such operations throughout the world. Her delegation commended the vast majority of United Nations officials and experts on mission for their invaluable contribution to advancing the principles enshrined in the Charter of the United Nations and stood ready, in solidarity with the international community, to uphold justice for lasting peace in the world.

14. **Mr. Kabir** (Bangladesh) said that any allegations made involving United Nations officials and experts on mission as well as members of non-United Nations forces serving in missions endorsed by the United Nations should be investigated and the outcome shared in a transparent manner. That would send a strong message against impunity, which was critical for sustaining the trust of Member States in the United Nations. In cases of allegations of sexual exploitation and abuse, the rights and protection of victims must have a central place. Effective complaint and redress mechanisms should be set up at the field level for alleged victims. Bangladesh therefore welcomed the appointment of the Victims' Rights Advocate and had pledged a US$100,000 contribution to the Trust Fund in Support of Victims of Sexual Exploitation and Abuse established by the Secretary-General; other Member States were likewise urged to contribute to it. His country considered remedial action in support of victims to be a non-derogable responsibility.

15. In the event of any allegation of sexual exploitation and abuse brought against any of its nationals serving in a United Nations mission, Bangladesh ensured that appropriate disciplinary and criminal justice measures were taken in accordance with its laws, shared all related information with the United Nations Secretariat and stood ready to conduct investigations jointly with it on specific allegations. Bangladesh had signed the voluntary compact proposed by the Secretary-General to eliminate sexual exploitation and abuse and remained committed to taking the necessary measures to comply with its provisions. The experience thus gained could be useful in addressing the outstanding issue of a draft convention on the criminal accountability of United Nations officials and experts on mission. Further efforts were also needed to implement Security Council resolution 2272 (2016), as well as comprehensive discussions within the General Assembly and the Security Council to forge ahead towards a "zero case" scenario.

16. **Mr. Mpongosha** (South Africa) said that as United Nations officials and experts on mission were almost always dealing with vulnerable and poorly protected groups, it was essential that the Organization should make every effort to ensure that they were not subject to criminal exploitation and abuse and at the same time to prevent the good work of those officials and experts from being tainted by the indiscretion and lack of discipline of a minority. In cases where they committed serious crimes, they should be held accountable. South Africa continued to support the adoption of a multilateral convention to regulate the matter and also as a means of prevention. In the meantime, his delegation reiterated its call to States to close the jurisdictional gap and to continue developing domestic legislation to allow them to establish jurisdiction over such crimes. South Africa also supported the call to States to strengthen predeployment vetting procedures and training and to

ensure the prompt reporting, investigation and punishment of offenders.

17. **Mr. Taye** (Ethiopia) said that the crimes committed by a few United Nations officials and experts on mission had a detrimental effect on the fulfilment of United Nations mandates and tarnished the commendable efforts of all the others. It was therefore of paramount importance to ensure that they never went unpunished and that their perpetrators were prosecuted. Ethiopia continued to support fully the Secretary-General's zero-tolerance policy towards such crimes and urged Member States to establish jurisdiction over them. Member States should also give assistance in criminal investigations and extradition proceedings. His delegation was nevertheless concerned that allegations of sexual exploitation and abuse did not always meet the minimum evidentiary standard.

18. Ethiopia, as a troop-contributing country, gave its peacekeepers the necessary predeployment training, including on sexual exploitation and abuse, and continued to address any related risk factors. In cases of alleged sexual misconduct by any of them, the necessary investigations would be carried out and appropriate measures would be taken. Ethiopian courts had jurisdiction over Ethiopian nationals who were immune from prosecution at the place of commission of a crime. Member States should continue to be informed of allegations of crimes committed by United Nations officials and experts on mission and the General Assembly remained the appropriate form to discuss the matter with a view to arriving at a comprehensive solution.

19. **Mr. Gertze** (Namibia) said that many peacekeeping missions were marred by cases of sexual exploitation and abuse, corruption, fraud and theft by United Nations officials and experts. While remaining fully committed to contributing to such missions and recognizing the dedication of United Nations personnel in the field, Namibia supported the zero-tolerance policy towards such conduct and welcomed the steps taken by the Secretary-General to address the allegations of sexual exploitation and abuse brought to the Organization's attention. His delegation likewise welcomed the establishment of the Office of the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse and hoped that it would also concern itself with other crimes.

20. Namibian officers to be deployed to United Nations missions were vetted beforehand to ensure that they had no criminal records; they included personnel with a legal background to ensure that crimes were investigated on the ground; however, cases were also reviewed in Namibia.

21. Both international law and the laws of host States must be respected, not only to prevent impunity for crimes but also to guarantee justice for victims. The special status enjoyed by United Nations officials and experts on mission should not protect them in such cases, and while Member States bore the primary responsibility for bringing them to justice when they committed crimes, the United Nations shared with Member States the responsibility to ensure that they were held accountable. His delegation encouraged Member States to cooperate with each other in criminal investigations and extradition proceedings in respect of such crimes and to take measures to close existing jurisdictional gaps on such matters.

22. **Mr. Heumann** (Israel) said that his country attached great importance to the development of appropriate legal instruments for preventing impunity and promoting accountability of United Nations officials and experts on mission and had recently signed the Secretary-General's compact to eliminate sexual exploitation and abuse. When such persons committed serious crimes they must be investigated and prosecuted, without prejudice to their privileges and immunities, and in accordance with international human rights standards, including due process. The development of appropriate legal instruments would strengthen the public image of the United Nations, especially with respect to its relations with the host country. Failure to adjudicate serious crimes might undermine the reputation, independence and life-saving functions of the United Nations.

23. Israel looked forward to seeing how States would develop their national legislation to ensure the criminal accountability of their nationals serving on United Nations missions, and it urged States to take steps to prevent impunity. Member States' actions could be more efficient if the United Nations showed a willingness to investigate allegations against its personnel on mission and to cooperate with the authorities of both the sending and the receiving Member States. In cases where personnel were entitled to immunity from jurisdiction, United Nations authorities must work to find solutions outside of local tribunals, including settlements with the victims of the offence, especially when there had been deaths or serious injuries. Israel welcomed the General Assembly's decision in its resolution 71/134 to urge the Secretary-General to continue to take practical measures to strengthen existing training on United Nations standards of conduct, and hoped that the mutual efforts would raise the awareness of States

regarding the principles of proper conduct and crime prevention by their nationals serving on such missions.

24. **Mr. Bawazir** (Indonesia) said that his country supported the zero-tolerance policy of the United Nations towards crimes committed by its officials and experts on mission, especially in cases of sexual exploitation and abuse. It had accordingly signed the voluntary compact proposed by the Secretary-General. As a leading troop- and police-contributing country, Indonesia was strongly committed to upholding the highest standards of conduct for its peacekeepers, who always received predeployment sensitivity training and operational guidance. Central to such training was the understanding that the laws of the host State must be respected and that nothing must be done to undermine the peacekeeping mission or the reputation of the United Nations.

25. Peacekeepers deserved the continuing gratitude of the international community, but when they committed violations the law must take its course. They must not have impunity in such cases and States must have the legal infrastructure to prosecute them. His delegation continued to hold the view that the sending State must establish jurisdiction over crimes committed by its nationals serving as United Nations officials or experts on mission and encouraged Member States to take all requisite steps to that end. Member States should also develop a robust and improved international legal cooperation regime, including arrangements for extradition and mutual legal assistance.

26. **Mr. Warraich** (Pakistan) said that, in the interests both of justice and of the integrity and credibility of the United Nations, the Organization's officials and experts on mission must be held criminally accountable. The protectors of the vulnerable could in no circumstances be allowed to become their abusers. As a major troop-contributing country, Pakistan fully subscribed to the zero-tolerance policy for crimes committed by such personnel and had been one of the first countries to sign the voluntary compact aimed at eliminating sexual exploitation and abuse. His country required its nationals serving in United Nations missions to undergo predeployment training in respect of human rights and the protection of civilians as well as in matters of financial propriety.

27. The goal of criminal accountability could be advanced through the closing of jurisdictional gaps, particularly in regard to crimes recognized by both the host State and the State of nationality. Likewise, since prosecution was critical for prevention, efforts should be made to strengthen the capacity of national institutions and criminal justice systems to hold the accused to account. Technical support from international organizations, including the United Nations, could contribute to that end.

28. **Mr. Al-Sharif** (Saudi Arabia) said that the United Nations had taken welcome steps to combat impunity and should continue to enforce a zero-tolerance policy in respect of public safety and criminal justice offences. The principle of the individual criminal responsibility of members of peacekeeping missions should be emphasized. The human rights standards applicable to peacekeeping missions needed to be overhauled, and Member States should work together to ensure that United Nations officials and experts on mission who had committed crimes were held to account. Before staff members were deployed, they should receive training regarding the criminal law of host States. It would also be worth examining the possibility of prosecuting crimes committed by United Nations officials under regional jurisdiction.

29. **Ms. Pierce** (United States of America) said that, for the sake of the Organization's credibility in carrying out its essential work around the world and the public's confidence in its ability to protect and serve, United Nations officials and experts on mission must be held accountable for crimes they committed. Following shocking allegations of sexual exploitation and abuse by United Nations peacekeepers some years previously, the General Assembly had called for a zero-tolerance policy, and the Secretary-General had demonstrated strong leadership in that regard by prioritizing the dignity of victims and promoting transparency, accountability and prevention. Her delegation welcomed the new approach to special measures for protection from sexual exploitation and abuse set out in the Secretary-General's report on the topic (A/71/818) and the efforts of Member States, the Security Council and the General Assembly to ensure that the issue remained a priority. It looked forward to engaging with all parts of the Organization on the implementation of reforms.

30. The Committee was concerned not only with sexual exploitation and abuse committed by peacekeeping troops but also with other criminal activity across the United Nations. Only 2 of the 20 referrals made by the United Nations in 2017 and 2 of 27 referrals in 2016, as set out in annex I to the Secretary-General's report of 28 July 2017 (A/72/205), related to allegations of sexual exploitation and abuse. Accountability must be promoted for all crimes committed by United Nations officials and experts on mission, including financial and other crimes, such as fraud, corruption and theft.

31. Her delegation appreciated the efforts made by the Office of Legal Affairs to implement the General Assembly's request for more follow-up with Member States that did not respond to referrals of criminal allegations. In several recent cases identified in annex I to the report, such additional efforts appeared to have made a difference, prompting States to respond. In addition, the provision, in annex II to the report, of information on notifications received from States with respect to investigations or prosecutions of crimes allegedly committed by United Nations officials or experts on mission was a positive step towards enhanced transparency.

32. The report of the Secretary-General of 29 June 2017 (A/72/121), which contained a compilation of information from across the United Nations system relating to policies and procedures regarding credible allegations that revealed that a crime might have been committed by United Nations officials or experts on mission, painted a complex picture that even a well-trained lawyer might find challenging to decipher, let alone a person in a remote village who was trying to report and follow up on allegations of fraud or corruption. Her delegation looked forward to discussing with other delegations ways to promote enhanced clarity and coherence of those policies and procedures in order to improve efficiency and transparency and reduce redundancies, if any.

33. The United States remained open to consideration by the Committee of whether an international convention could play a useful role in closing jurisdictional gaps that might prevent Member States from holding their nationals accountable for criminal acts committed while serving as United Nations officials and experts on mission. In that regard, her delegation recognized the continued efforts of the Secretariat to compile information submitted by Member States, although more information was still needed, in particular about the domestic laws of those States that faced legal challenges to holding their nationals to account for criminal acts committed while serving with the United Nations abroad.

34. With regard to the further consideration at the seventy-third session of the report of the Group of Legal Experts on ensuring the accountability of United Nations officials and experts on mission with respect to criminal acts committed in peacekeeping operations, contained in the note by the Secretary-General on the same topic (A/60/980), the Committee must have a full picture of obstacles in the domestic legal landscape so that it could give closer consideration to the possible impact and form of a potentially legally binding instrument. That would also help the Committee examine other approaches or solutions that might be more effective.

35. **Mr. Shin** Seoung Ho (Republic of Korea) said that crimes committed by persons abusing their status as United Nations officials or experts on mission could not be tolerated. Such crimes not only tarnished the reputation and credibility of the United Nations but also seriously affected the functioning of the missions in question, as they were likely to discourage the local population from cooperating with the Organization. Member States should take all appropriate measures, including establishing jurisdiction over such crimes, to ensure that perpetrators were brought to justice. Crimes of sexual exploitation and abuse were particularly deplorable in that they victimized the very people that United Nations personnel were meant to serve and protect. He reaffirmed his country's full support for the Organization's zero-tolerance policy with regard to such crimes, which, if not properly punished, would create the negative perception that United Nations officials and experts on mission operated with impunity.

36. His delegation noted with appreciation that the Office of Legal Affairs had referred 35 cases to States of nationality for investigation and possible prosecution during the period from 1 July 2016 to 30 June 2017, and commended the Secretary-General for actively following up with the States concerned and improving the approach and scope of his report on criminal accountability of 28 July 2017 (A/72/205). However, it was disappointing that information on the status of investigations and prosecutorial or disciplinary action had been received from States in only about one fifth of the 124 cases referred to them. Efforts to end impunity for crimes committed by United Nations personnel could not move forward without the active commitment of Member States. States of nationality must therefore periodically inform the Secretariat of the progress and final outcome of cases within their jurisdiction. His delegation commended those States that had provided such information.

37. While the punishment of criminals was important in terms of justice and also served to a considerable degree as a prevention mechanism, it was crucial to prevent possible crimes by United Nations personnel from the very beginning. His delegation therefore welcomed the practical measures to strengthen existing predeployment training and vetting measures described in the Secretary-General's report. The Secretary-General and all Member States had a shared responsibility to prevent offences and punish the perpetrators, and the role of Member States in instilling discipline and providing training prior to deployment

was particularly important. As a troop-contributing country, the Republic of Korea provided a two-month intensive training course for those who were about to be deployed. The most able soldiers were recruited through a rigorous selection process and given instruction in professional ethics. Such predeployment training had undoubtedly contributed to the fact that no crimes of a serious nature had been committed by nationals of his country during their service as United Nations personnel.

38. **Mr. Itegboje** (Nigeria) said that his country condemned acts of sexual exploitation and abuse, which caused incalculable harm to the image of the United Nations, and was strongly committed to holding accountable personnel, including its own nationals, who perpetrated such acts. Nigeria was proud that its President belonged to the recently established circle of leadership on the prevention of and response to sexual exploitation and abuse in United Nations operations, many of whose members represented troop- and police-contributing countries, and pledged to continue cooperating with the Office of the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse. Nigeria had provided the Office with copies of the laws and manuals used in the administration of justice in the Nigerian Armed Forces. It also collected DNA samples and used them to determine culpability for sexual exploitation and abuse in cases involving paternity claims.

39. Nigeria was making efforts to raise awareness among its own troops serving in missions abroad of the potential impact of any untoward acts, the medical risks of irresponsible behaviour, and the Organization's policy of zero tolerance for such acts. In that connection, three Nigerian teams had been cleared to visit the United Nations Mission in Liberia (UNMIL), the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and the African Union-United Nations Hybrid Operation in Darfur (UNAMID) in 2017 and had been successful in raising awareness among Nigerian peacekeepers of the problem of sexual exploitation and abuse and related issues. His Government was also working to establish mobile courts that would be mandated to act promptly on cases of sexual exploitation and abuse committed by personnel on mission.

40. It was necessary to establish a working environment that was conducive to the prevention of sexual exploitation and abuse by changing the organizational culture of missions, increasing the participation of women, improving the welfare of personnel, investigating and prosecuting suspects in a timely manner, providing training programmes on the issue of sexual exploitation and abuse, and excludi personnel who had committed offences of sexu exploitation and abuse while serving on any Unit Nations mission. His Government was providi recreational facilities for Nigerian peacekeepe serving on missions abroad and had approved proposal to grant them regular leave to visit th families and loved ones. It had also made arrangemen to increase the number of welfare flights to and fro mission areas.

41. Victims of sexual exploitation and abuse shou not be stigmatized but rather rehabilitated. To that en his Government had donated $100,000 to the Unit Nations Trust Fund in Support of Victims of Sexu Exploitation and Abuse and urged others to ma contributions to the Fund. It had also launch programmes of lectures and predeployment training f peacekeeping officers at the Nigerian Arm Peacekeeping Centre and invited contingents fro other countries to participate.

42. Exemplary behaviour should be rewarded order to encourage others, while bad behaviour shou be punished without hesitation. The amount of goo work done through the United Nations far exceeded th number of misdeeds committed by a few. However one case of sexual exploitation and abuse or oth criminal behaviour was one too many and was enoug to tarnish the Organization's name. Nigeria continu to call on all Member States to cooperate with th Organization in the exchange of information an timely facilitation of investigations and prosecution where investigations showed that sexual exploitation abuse might have been committed.

43. **Mr. Bentaja** (Morocco) said that any offence any kind committed by a United Nations official expert on mission must be prosecuted in a court of th State of which the accused person was a national. I order to maintain the credibility of the Organizatio immunity should never be invoked as a ploy or in manner inconsistent with the purposes of the Unite Nations. Section 20 of the Convention on th Privileges and Immunities of the United Nations state that privileges and immunities were granted to officia in the interests of the United Nations and not for th personal benefit of the individuals themselves, and th the Secretary-General had the right and the duty t waive the immunity of any official in any case where in his opinion, the immunity would impede the course of justice and could be waived without prejudice to th interests of the United Nations. Before the deployment, civilian and military personnel shoul receive legal training on their criminal accountabilit

under their domestic law and international law when offences were committed.

44. His delegation welcomed the efforts made by the Department of Peacekeeping Operations and the Department of Field Support to establish a strategy to eliminate all forms of reprehensible conduct through preventive measures, strengthen compliance with the United Nations rules of conduct and the relevant Secretary-General's bulletins and administrative instructions, and to impose corrective measures where necessary. Actions should also be taken to protect the victims and provide them with compensation and medical assistance. Lastly, if the allegations against an official or expert proved to be unfounded, the United Nations should take steps to restore that person's reputation, in conformity with paragraph 12 of General Assembly resolution 68/105.

The meeting rose at 4.55 p.m.

United Nations A/C.6/72/SR.10

General Assembly
Seventy-second session
Official Records

Distr.: General
8 November 2017
Original: English

Sixth Committee

Summary record of the 10th meeting
Held at Headquarters, New York, on Monday, 9 October 2017, at 10 a.m.

Chair: Mr. Gafoor (Singapore)

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The meeting was called to order at 10.10 a.m.

Agenda item 79: Report of the United Nations Commission on International Trade Law on the work of its fiftieth session (A/72/17)

1. **Mr. Martonyi** (Chair of the United Nations Commission on International Trade Law (UNCITRAL)), introducing the Commission's report on the work of its fiftieth session (A/72/17) and noting that a more detailed statement would be made available on the PaperSmart portal, said that the Commission had finalized and adopted two legislative texts in the key commercial areas of electronic commerce and secured transactions. It had also heard progress reports from the working groups, considered planned and possible future work and deliberated on the technical assistance and coordination activities carried out by its secretariat. It had also held a three-day Congress from 4 to 6 July 2017 to commemorate the 50 years of work by the Commission in the field of international trade law.

2. The Commission had decided to undertake work on the UNCITRAL Model Law on Electronic Transferable Records, recognizing that the use of electronic transferable records — the electronic versions of bills of lading, promissory notes, bills of exchange and warehouse receipts — could bring a number of benefits to commerce due to the speed and security of transmission and the possibility of re-using data and of automating certain transactions through smart contracts. Such features might be of special interest to the finance and transport sectors. Particularly relevant for developing countries was the possibility of establishing a market for electronic warehouse receipts, which in turn could facilitate farmers' access to credit.

3. Building on existing UNCITRAL texts on electronic commerce and on the principles of functional equivalence and technology neutrality, the Model Law aimed at making it legally possible to dematerialize transferable documents and instruments. It did so by setting forth the requirements for establishing equivalence between paper-based transferable documents and instruments, on the one hand, and electronic transferable records, on the other. For example, the Model Law allowed the notion of "possession" to be transposed into an electronic environment. It also provided guidance on assessing the reliability of the method used to manage the electronic transferable record, on change of medium (from electronic to paper and vice versa) and on cross-border issues. Being technology neutral, the Model Law accommodated the use of emerging technologies such as the distributed ledger or blockchain technologies. It was accompanied by explanatory notes to assist States in enacting its provisions and to offer guidance to other potential users.

4. Work on the preparation of the Model Law and the explanatory notes had been undertaken by UNCITRAL Working Group IV (Electronic Commerce); the final version would soon be made available on the UNCITRAL website.

5. In 2016, the Commission had adopted the UNCITRAL Model Law on Secured Transactions, providing a transparent, comprehensive and rational legislative framework for secured financing of movable assets. The Model Law was expected to have a beneficial impact on the availability and cost of credit, in particular for small and medium-sized enterprises in developing countries.

6. At the latest session, the Commission had adopted the Guide to Enactment of the UNCITRAL Model Law on Secured Transactions. As the Model Law left a number of matters to the discretion of each enacting State, the Guide provided useful assistance to legislators in that respect. It contained a general introduction to, and a brief explanation of, each provision of the Model Law and illustrated how the provisions of the Model Law interrelated with other UNCITRAL texts on secured transactions (for example, the United Nations Convention on the Assignment of Receivables in International Trade and the UNCITRAL Legislative Guide on Secured Transactions).

7. Work on the preparation of the Guide to Enactment had been undertaken by UNCITRAL Working Group VI (Security Interests), and the final version would soon be made available on the UNCITRAL website.

8. A key objective of the three-day Congress in July, entitled " Modernizing International Trade Law to Support Innovation and Sustainable Development" had been to examine how trade law reform based on the Commission's modern, fair and harmonized texts could contribute to the 2030 Agenda for Sustainable Development. More than 400 participants had attended the Congress, which had been opened by the Legal Counsel of the United Nations. The Commission's achievements had allowed developing countries to benefit from the significant economic and social advantages of international trade, to harness technological innovation and to build sound institutions. The highly positive contribution of UNCITRAL to strengthening the rule of law in commercial activity had been a recurring theme.

together with the comparative advantage of UNCITRAL in the process of law reform in terms of its multilingualism and inclusiveness.

9. The topics at the Congress had included more traditional subject areas, such as dispute settlement, insolvency, secured transactions, and procurement and infrastructure development, as well as emerging areas, such as digital contracts, blockchain technology, integrated transport and trade facilitation. The need for UNCITRAL to consider small and medium-sized enterprises had been constantly emphasized.

10. Recognizing the need for activities to support the effective implementation and use of UNCITRAL texts and the contributions of such activities to identifying issues for future legislative development, the Congress had concluded that mechanisms to disseminate and preserve the work of UNCITRAL should be strengthened.

11. The Commission was updated annually on progress made by its working groups and on their planned and possible future work. Working Group I (Micro, Small and Medium-sized Enterprises (MSMEs)) had made progress in its work aimed at reducing the legal obstacles encountered by such businesses throughout their life cycle. The Working Group had focused on measures to facilitate the establishment of such businesses and to support their viability. Those efforts had crystallized into two distinct legislative projects currently being undertaken by the Working Group. One was the preparation of a legislative guide to assist States in crafting appropriate legislation for the swift and inexpensive creation of legally recognized simplified businesses. The other, which was nearing completion and might be considered for adoption by the Commission in 2018, was a legislative guide that analysed and provided specific legislative recommendations on best practices in the establishment and operation of business registries to support the sustainability of businesses.

12. Since 2015, Working Group II (Dispute Settlement) had been preparing an instrument to deal with enforcement of international commercial settlement agreements resulting from conciliation. The Commission had noted the progress made by the Working Group, in particular the compromise reached at its sixty-sixth session regarding five key aspects, relating to (i) the legal effect of settlement agreements, (ii) the treatment of settlement agreements concluded in the course of judicial or arbitral proceeding, (iii) possible opt-in declarations by the parties, (iv) the impact of the conciliation process and of the conduct of conciliators on the enforcement procedure and (v) the form of the instrument to be prepared. The Commission had expressed support for that compromise and had requested the Working Group to complete the work expeditiously.

13. The Commission had reaffirmed the mandate given in 2016 to Working Group IV (Electronic Commerce) to conduct in parallel preparatory work on two topics, which were quite different in scope and content. One related to legal aspects of identity management and trust services, and the other to contractual issues concerning cloud computing. The Working Group had already begun its preparation of a checklist of contractual issues of cloud computing by identifying the content and structure of that checklist. Work on identity management and trust services would require further brainstorming to crystallize the issues to be addressed.

14. Working Group V (Insolvency Law) continued to make progress with its work on, firstly, a model law on the recognition and enforcement of insolvency-related judgments; secondly, legislative provisions on facilitating the cross-border insolvency of multinational enterprise groups; and thirdly, a legislative guide on the obligations of directors of enterprise group companies in the period approaching insolvency. The model law on insolvency-related judgments was nearing completion, and a draft text, together with a guide to enactment, was likely to be submitted for consideration by the Commission in 2018. The second and third texts, which were closely related, would be discussed during the December 2017 session and might also be ready for finalization by the Commission in 2018. Once those texts had been finalized, the Working Group would consider the treatment of micro, small and medium-sized enterprises in insolvency, a topic on which preliminary work had already begun.

15. The Commission had decided to give Working Group III a mandate to work on a possible reform of investor-State dispute settlement. The Working Group would identify concerns regarding such settlement and consider whether reform was desirable; if so, it would develop solutions that would be recommended to the Commission. In giving that mandate, the Commission had agreed that broad discretion should be left to the Working Group and that any recommended solutions should be designed taking into account the ongoing work of relevant international organizations and should allow each State the choice of whether and to what extent it wished to adopt those solutions.

16. In line with the UNCITRAL process, Working Group III was expected to ensure that its deliberations would benefit from the widest possible breadth of

available expertise from all stakeholders and high-level input from all Governments. The need for the process to be consensus-based and fully transparent had also been emphasized. The first session on the topic of investor-State dispute settlement was scheduled for late November in Vienna.

17. Upon finalization of the Guide to Enactment of the UNCITRAL Model Law on Secured Transactions, the Commission had discussed possible future work on security interests. Following deliberations based on conclusions reached at the Fourth International Colloquium on Secured Transactions, held in Vienna in March 2017, the Commission had mandated Working Group VI to prepare a practice guide for potential users of the Model Law with respect to contractual, transactional and regulatory issues relating to secured transactions, as well as financing of micro-businesses.

18. The Commission had also recognized the importance of public procurement and infrastructure development in the context of sustainable development. With regard to public-private partnerships, the secretariat had been asked to continue the process of updating, where necessary, all or part of the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects, involving experts. As to the monitoring of developments in sanction procedures, often referred to as suspension and debarment in public procurement, the Commission had decided that the matter should no longer be included on its agenda, pending further convergence of systems in practice.

19. The Commission had also heard a report on the operation of the UNCITRAL Transparency Registry, a key element of the UNCITRAL Rules on Transparency and the Mauritius Convention on Transparency. Thanks to the contributions received in 2016 from the European Commission and the OPEC Fund for International Development (OFID), the Registry was fully operational, with the secretariat having hired a legal officer responsible for its administration. In December 2016, the European Commission had made a further commitment in the amount of €300,000, which would allow for the operation of the Registry until the end of 2020.

20. UNCITRAL had reiterated its strong and unanimous opinion that the secretariat should operate the transparency repository. Accordingly, the Commission had recommended to the General Assembly that it should request the secretariat to continue operating the repository, in accordance with article 8 of the Transparency Rules, as a pilot project until the end of 2020, to be funded entirely by voluntary contributions.

21. The Commission had been keenly aware that the development of its legislative texts was only the first step in the process of trade law harmonization. Dissemination of information and the conduct of promotion activities, as well as technical cooperation and assistance projects, were vital to the further use, adoption and interpretation of UNCITRAL texts. In that respect, the Commission had commended the secretariat's efforts to provide information, to actively support domestic law reform through drafting assistance and to share practical experience in the enactment of UNCITRAL texts, as well as advice on interpretation and implementation of those texts. The UNCITRAL website and the UNCITRAL Law Library played a central role in the dissemination of information, and the Commission had encouraged the secretariat to continue to explore the development of new social media features on the UNCITRAL website.

22. The ability of the secretariat to respond to requests from States and regional organizations depended, however, on the availability of funds to meet associated costs, mainly in the form of voluntary contributions to the UNCITRAL Trust Fund for Symposia. Despite some highly appreciated contributions, such as the one by the Republic of Korea to support participation in the Asia-Pacific Economic Cooperation (APEC) Ease of Doing Business project, those funds remained insufficient to meet the requests.

23. The Commission had therefore welcomed steps taken by the secretariat to explore alternative sources of extrabudgetary funding, in particular by extensively engaging permanent missions and other possible partners in the public and private sectors and by seeking cooperation and partnership with international organizations and bilateral assistance agencies in the provision of technical assistance. The Commission had also reiterated its appeal to all States, international organizations and other interested entities to consider making contributions to the Trust Fund, if possible in the form of multi-year contributions or as specific-purpose contributions, to facilitate planning and enable the secretariat to meet the increasing number of requests for technical cooperation and assistance activities.

24. The UNCITRAL Regional Centre for Asia and the Pacific, based in Incheon, Republic of Korea, had continued to provide capacity-building and technical assistance to States as well as international and regional organizations. The Centre had enhanced international trade and development by promoting certainty in international commercial transactions through the dissemination of international trade norms and standards, in particular those elaborated by

UNCITRAL, which had been increasingly acceded to, ratified and enacted in the Asia Pacific region.

25. The Regional Centre had achieved that result by building and actively participating in regionally-based international trade law partnerships and alliances, including with other appropriate United Nations funds, programmes and specialized agencies. Noteworthy was its participation, as a non-resident agency, in the effort of the United Nations to deliver as one in the Lao People's Democratic Republic-United Nations Partnership Framework 2017–2021 and in the United Nations Development Assistance Framework (UNDAF) Papua New Guinea 2018–2022.

26. The positive experience with the Regional Centre for Asia and the Pacific was having spill-over effects in other parts of the world. At its 2017 session, the Commission had been advised that Cameroon had offered to host an UNCITRAL African regional centre and that Bahrain had been actively pursuing the establishment of an UNCITRAL regional centre for the Middle East and North Africa in the Kingdom. The establishment and operation of the regional centres would depend entirely on extrabudgetary resources provided by leading stakeholders, in cooperation with interested government authorities. Both were currently being envisaged as pilot projects following the example of the UNCITRAL Regional Centre for Asia and the Pacific.

27. The Commission had approved the establishment of the centres, subject to the relevant United Nations rules and regulations as well as the necessary internal approval process. The secretariat had been requested to take the necessary steps to carry out that decision and to keep the Commission informed of developments, including its funding and budgetary situations. He expected the General Assembly to express its strong support for such decisive steps being taken towards increasing the outreach of UNCITRAL.

28. In response to the General Assembly's invitation, the Commission had been transmitting comments on its role in promoting the rule of law at the national and international levels. In 2017, its comments had focused on ways and means of further disseminating international commercial law to strengthen the rule of law, in accordance with the subtopic identified for the Sixth Committee debate under the relevant agenda item. The Commission had referred to its traditional and innovative dissemination activities and their importance in that regard.

29. UNCITRAL had identified new dissemination challenges, in particular the increased use of information and technology tools aimed at assisting States with commercial law reform that did not necessarily reflect internationally accepted commercial law standards. It had emphasized the need for better integration of the Commission's work into the broader agenda of the United Nations. In that context, it had recalled the endorsement, at its previous session, of the Guidance Note on Strengthening United Nations Support to States, Upon Their Request, to Implement Sound Commercial Law Reforms and the request by the General Assembly to the Secretary-General, made upon recommendation of the Sixth Committee, to circulate the Guidance Note broadly to all intended users. The Commission had encouraged the secretariat to bring the Guidance Note to the attention of legal advisers across the United Nations system.

30. The Commission's relatively small secretariat produced a large volume of high-quality work. However, the member States were the true "shareholders" of UNCITRAL and had a direct interest in maximizing the return on their investment in the modernization and harmonization of international law. He therefore sought their continued participation in and support for UNCITRAL and its activities. The ever-increasing importance of international trade and the accelerating pace of economic globalization required the Commission to continue to expand its work, which ultimately benefited all States.

31. **Mr. Jaime Calderón** (El Salvador), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that the current structure, composition and inclusive working methods of UNCITRAL ensured the harmonization, unification and progressive development of international trade law, respect for the principle of the sovereign equality of States and worldwide acceptance of the texts issued by the Commission.

32. CELAC welcomed the approval of the Model Law on Electronic Transferable Records and its explanatory notes, and of the Guide to Enactment of the UNCITRAL Model Law on Secured Transactions. The Commission's decision to recommend the use of the Uniform Rules for Forfaiting would contribute to the establishment of a modern legal framework, especially for the countries of Latin America and the Caribbean. CELAC also welcomed the Commission's decision to entrust Working Group III with the study of the reform of the investor-State dispute settlement system.

33. The challenges regarding the codification of international trade law were increasing, and the volume and the characteristics of commerce at the global level were undergoing constant change, owing to incessant

technological development and the diversification of commercial activities. The Commission's codification work must keep pace with such change.

34. CELAC strongly supported the work of UNCITRAL and appreciated the efforts of its members to achieve the objectives it had set. The States members of CELAC participated actively in working groups and plenary meetings of the Commission, as members or observers. Since such participation entailed significant effort, they once again stressed that the current system whereby meetings were held alternately in Vienna and New York should be maintained, since it provided a valid alternative for delegations without diplomatic representation in Austria. Although CELAC recognized the Organization's budget constraints, efforts to facilitate broad participation by member States would help to ensure rich debates and substantive outcomes.

35. Bearing in mind the 2030 Agenda for Sustainable Development, especially the targets relating to Goal 16, CELAC reiterated its commitment to supporting the work of UNCITRAL.

36. **Ms. Mezdrea** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Serbia, the former Yugoslav Republic of Macedonia and Turkey; and, in addition, the Republic of Moldova and Ukraine, said that traditional investor-State dispute settlement presented a number of challenges and should be reformed; many countries were already taking action to do so. A multilateral approach appeared best suited to addressing all the issues at stake.

37. It was encouraging that UNCITRAL had agreed, as a first step, to start work on identifying underlying issues and concerns in order to provide the rationale for any proposed reforms and to proceed with the development of possible solutions. Considering the significant advantages that UNCITRAL presented in terms of transparency, openness and accessibility, the European Union and its member States called on all countries, international organizations and observers to participate actively in the discussions and hoped that a satisfactory outcome could be reached in reasonably good time.

38. **Ms. Kalb** (Austria) said her delegation commended the Commission for its achievements so far in a variety of areas of international trade law, including its work on conventions, model laws, legislative guides and other texts. UNCITRAL had succeeded in harmonizing and modernizing the legal framework for the facilitation of international trade and investment in an increasingly interdependent world.

39. Importantly, in 2017 the Commission had entrusted Working Group III with a broad mandate to work on the possible reform of investor-State dispute settlement. As a member of the European Union, Austria supported that process in the framework of UNCITRAL, which had repeatedly proved to be a transparent, open, multilateral forum for addressing challenges and concerns in a consensual manner.

40. Strengthening the rule of law through the efforts of UNCITRAL and its secretariat was essential for achieving the Sustainable Development Goals. Austria was a firm advocate of the Commission's work on technical cooperation and assistance in the field of international trade law reform and development. It recognized the need to strengthen support for States, upon their request, in the fulfilment of their respective international obligations through enhanced technical assistance and capacity-building. It welcomed the Secretary-General's efforts to ensure greater coordination and coherence between United Nations entities and donors and recipients.

41. Austria was pleased to again serve as coordinator for the UNCITRAL resolutions in the Sixth Committee. The previous week, the draft resolutions had been circulated to Member States and uploaded on the e-deleGATE portal. Delegations wishing to co-sponsor the UNCITRAL omnibus resolution would have the opportunity to sign the list at the Austrian desk or use the e-deleGATE portal.

42. Austria attached the highest importance to the work of UNCITRAL, and it would continue to support the Commission and its Vienna-based secretariat. Austria made regular contributions to the Trust Fund for travel assistance to developing countries.

43. **Mr. Bailen** (Philippines) said that his Government was in favour of a fair, stable and predictable legal framework propitious to inclusive, sustainable and equitable development, economic growth and employment. It therefore welcomed the role played by UNCITRAL in promoting the rule of law through multilateral treaties in the areas of international trade, financing and investments. Through its guides, model laws and other instruments and its work on the harmonization and modernization of trade law, UNCITRAL could assist countries in developing a rule-based environment in which commercial activities could flourish.

44. The Philippines was giving close attention to the development of standards on transparency, including the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the United Nations Convention on Transparency in Treaty-based

Investor-State Arbitration. It welcomed the decision to entrust Working Group III with a broad mandate to work on the possible reform of investor-State dispute settlement. Despite the diversity of views offered, the mandate had been decided by consensus.

45. The Philippines welcomed the progress made by Working Group I in respect of the creation of a simplified business entity and the key principles of business registration. It looked forward to the completion of the draft legislative guide on key principles of a business registry, for possible adoption at the fifty-first session.

46. His delegation looked forward to the publication of the Model Law on Secured Transactions, together with the Guide to Enactment, on which Working Group VI had completed its work.

47. The Philippines supported the mandate given by the Commission to Working Group IV to begin consideration of the topics of identity management and trust services, as well as cloud computing, after the completion of the work on the draft model law on electronic transferable records. It looked forward to updates in the Working Group's report in future sessions on the preparatory work on those two topics, including with respect to their feasibility.

48. His delegation was particularly pleased about the initiatives undertaken by the UNCITRAL Regional Centre for Asia and the Pacific to strengthen information, knowledge and statistics through briefings, workshops, seminars, publications, social media, and information and communications technologies, including in regional languages.

49. **Ms. Fong** (Singapore) said that the UNCITRAL Model Law on Electronic Transferable Records would remove uncertainty in many jurisdictions. The substantive law that governed the underlying rights and obligations of such records generally predated the digital world, and the current established procedures for their transfer were all paper based. The Model Law would significantly assist States in enhancing their legislation and bring with it considerable benefits in convenience, certainty, security and costs.

50. She commended the Commission and Working Group IV for the practical approach taken in the Model Law, which worked with and did not affect existing legislation governing such documents and instruments. That would make it easier for States to adopt it. There would be clear benefits to commercial parties without having to review or create any new substantive law on negotiable instruments.

51. Working Group II and Working Group V had made good progress. Her delegation would continue to participate actively in their work. It also looked forward to the discussion in Working Group III on the issues arising out of the current investor-State dispute settlement framework.

52. Some of the suggestions made at the fiftieth session of UNCITRAL would need to be carefully examined to determine whether they were within the Commission's mandate or whether they could be better undertaken by some other body within or outside the United Nations system. The increasing complexity of work and the growing demands on the resources of UNCITRAL and its member States meant that it was becoming critically important for the Commission to prioritize its work. In her delegation's view, priority should be given to the formulation of legislative texts that would promote international harmonization, rather than non-legislative texts that addressed legal issues which might be interesting, but which did not by themselves lead to the harmonization of the law in that subject area.

53. Some of the six working groups had been working continuously on different aspects of the same subject matter for many decades. That had narrowed the opportunities for other topics to find a place on the Commission's agenda. It was therefore important, particularly given the demands on limited resources, for UNCITRAL to constantly scan the horizon to determine new areas of law requiring harmonization.

54. Singapore valued the work of the UNCITRAL Regional Centre for Asia and the Pacific and expressed its continued readiness to support the work of UNCITRAL and its secretariat.

55. **Mr. Horna** (Peru) said that his delegation appreciated the efforts made by UNCITRAL to modernize and harmonize international trade law. Peru stressed its commitment to the elaboration of future initiatives in that regard.

56. In a speech to his country's Congress in July, the President of Peru had emphasized the importance of micro, small and medium-sized enterprises and had highlighted an action plan for access to loans, State purchases and lower taxes to stimulate growth and development. His delegation was therefore interested in the work of Working Group I and welcomed the efforts to reduce legal obstacles to the creation of such businesses. Peru had similar objectives and had adopted regulatory norms establishing a more favourable fiscal framework for those enterprises.

57. Peru appreciated the progress made by Working Group II and would follow closely the future elaboration of a legislative instrument to address the enforcement of international settlement agreements resulting from conciliation proceedings. Moreover, given the continuous growth of private investment in telecommunications, mining and energy in Peru, his Government was following developments in the work of Working Group III with considerable interest.

58. In a globalized world in which electronic commerce was constantly growing, the work of Working Group IV was of particular relevance. As for the adoption of the Model Law on Electronic Commerce, Peru reiterated its readiness to share its experience, including with regard to the introduction, by its National Civil Status Identification Registry, of digital identity and electronic data transfer.

59. His delegation welcomed the adoption of the Model Law on Secured Transactions and would follow with interest the possible development of a guide to practice, which might be useful for future national legislation.

60. Peru reaffirmed its commitment to promoting the rule of law within the framework of the Sustainable Development Goals. Goal 16 and a number of targets were of particular relevance for the work of UNCITRAL.

61. **Mr. Umasankar** (India) welcomed the finalization and adoption of the Guide to Enactment of the Model Law on Secured Transactions, which would increase the availability of secured credit across national borders and contribute to the development of international trade, if achieved on the basis of equality and mutual benefit for all States. Likewise, the Model Law on Electronic Transferable Records and its explanatory notes would help to develop systems to enable progress in the field of paperless trade, including the legal aspects of electronic single-window facilities. India also appreciated the efforts of the Commission and its secretariat in fulfilling the role of the transparency repository.

62. His delegation welcomed the outcome of the deliberations and the general support for a proposed reform to investor-State dispute settlement, which might go a long way towards enhancing consistency in treaty interpretation and application; however, UNCITRAL should not rush to hasty conclusions.

63. India appreciated the Commission's efforts to promote the uniform interpretation and application of its legal instruments, including the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and agreed that the Case Law of UNCITRAL Texts (CLOUT) and the digests were pivotal tools in that regard.

64. India reiterated the importance of technical cooperation and assistance to developing countries, specifically in matters relating to the adoption and use at the national level of texts adopted by the Commission. It encouraged the secretariat to continue to provide such assistance as broadly as possible and to improve its outreach, in particular to the developing countries.

65. His delegation looked forward with keen interest to the proposal of the Governments of Australia, Canada, Japan and the United Kingdom for the preparation by the Commission of a practice guide to the UNCITRAL Model Law on Secured Transactions.

66. **Mr. Sawada** (Japan) said that Japan understood the importance of reducing legal obstacles faced by micro, small and medium-sized enterprises throughout their life cycle, particularly in developing economies. Working Group II (Dispute Settlement) was tackling challenging topics relating to the enforceability of settlement agreements; his delegation hoped it would continue to examine those topics, particularly the need for coordination with existing legislation in individual States, and it looked forward to the completion of the project and to the adoption of the instrument during the next session of the Commission.

67. His delegation hoped that Working Group III (Investor-State Dispute Settlement Reform) would strictly follow the work sequence stipulated in the mandate without prejudice to the final outcome of the process. The work of UNCITRAL should be based not on perceptions or impressions about such reform but on facts relating to the current investment arbitration system.

68. Japan congratulated UNCITRAL on its finalization and adoption of the Model Law on Electronic Transferable Records, which it hoped would promote legislation on electronic commerce as well as past UNCITRAL e-commerce texts. Working Group IV should continue to pay due attention to technological neutrality. In addition, Japan would continue to support Working Group V (Insolvency Law) and looked forward to further progress in that area in the future.

69. Japan commended UNCITRAL on its finalization and adoption of the Guide to Enactment of the Model Law on Secured Transactions and looked forward to the commencement of consideration by Working Group VI (Security Interests) of the practice guide to promote the applicability of the Model Law.

70. **Mr. Musikhin** (Russian Federation) said that the Russian Federation highly valued the contribution of UNCITRAL to international economic cooperation and private law. It was a party to a number of international agreements elaborated within the Commission. Texts prepared by UNCITRAL served to enhance Russian legislation.

71. His delegation was confident that the progress made by Working Group I on developing standards aimed at lowering the legal hurdles that micro, small and medium-sized enterprises encountered would make it possible to elaborate a draft legislative guide on key principles of a business registry and to adopt it at the Commission's fifty-first session in 2018.

72. His Government attached great importance to the work of Working Group II, which was currently drafting a document on enforcement of settlement agreements resulting from international commercial conciliation. During its sixty-seventh session the previous week in Vienna, the Working Group had also considered the draft convention prepared by the UNCITRAL secretariat on the topic and draft amendments to the UNCITRAL Model Law on International Commercial Conciliation. From a practical point of view, priority should be given to developing amendments to the Model Law.

73. His delegation welcomed the adoption at the fiftieth session of UNCITRAL of the Model Law on Electronic Transferable Records, and it agreed that Working Group IV should give priority consideration to the issue of identity management and trust services, including the initiative put forward by his delegation at the fifty-fifth session. The need to define a legal framework in that area had become particularly relevant, owing to the emergence and rapid development of decentralized data processing systems.

74. On Working Group V, his delegation was confident that compromise solutions would be found to meet the interests of all UNCITRAL members concerning recognition and enforcement of insolvency-related judgments, and with regard to facilitating the settlement of issues relating to the cross-border insolvency of multinational enterprise groups. It was also necessary to update the Legislative Guide on Insolvency Law. Moreover, in respect of the Guide to Enactment of the Model Law on Secured Transactions, his delegation encouraged Working Group VI to commence the preparation of a practice guide to that Model Law.

75. Concerning the Commission's decision to begin discussing the reform of the international system of investor-State dispute settlement and the secretariat's note on the topic, his delegation referred to the need for a careful, balanced approach, based on the objective results of an analysis of existing mechanisms and bearing in mind the unique aspects of investor-State relations and regional differences in their international legal settlement. Working Group III should focus on assessing the current state of the investor-State dispute settlement system and ways of enhancing existing instruments; it was crucial for its work to be transparent and consensus based.

76. The proposals to set up new bodies for investor-State dispute settlement, including judicial bodies, lacked substantive arguments; their implementation would undermine the existing system. It was not advisable to begin work in that area.

77. **Mr. Jaime Calderón** (El Salvador) said that the UNCITRAL working groups had made excellent progress in their respective fields of endeavour. His delegation welcomed, in particular, the Commission's decision to mandate Working Group III with the study of the reform of investor-State dispute settlement.

78. El Salvador also commended Working Groups IV and VI on their adoption of the Model Law on Electronic Transferable Records and its explanatory notes and the Guide to Enactment of the UNCITRAL Model Law on Secured Transactions, respectively, and it welcomed the Commission's decision to support the Uniform Rules for Forfaiting and to recommend their use, which would contribute to establishing a modern legal framework in the area, especially in developing countries.

79. Support for the productive sectors was an essential component of a country's economic development, and the work of Working Group IV (Electronic Commerce) was making a positive contribution to the development of El Salvador. The country's five-year development plan 2014-2019 had drawn on models of international electronic commercial practice and globalization as instruments helping El Salvador to move forward.

80. As a member of UNCITRAL, El Salvador had demonstrated its commitment to the Commission's mandate and had participated actively in meetings to prepare and adopt legal instruments that would help establish a legal framework to promote investment and trade for all countries, bearing in mind their different economic systems. In that context, it was important to stress that the Commission's work had been carried out with due regard for the principle of the sovereign equality of States.

81. The Commission's working method enabled countries like El Salvador to learn from practices used in the various legal systems worldwide and thereby to promote the harmonization of international trade law.

82. In line with its commitment to help disseminate information on the Commission's work and texts, El Salvador had appointed a national correspondent in 2017, who operated in the framework of the Case Law on UNCITRAL Texts (CLOUT).

83. His delegation shared the view that the texts adopted by UNCITRAL should reflect the Sustainable Development Goals.

84. **Mr. Thatong** (Thailand) said that, like many other countries, Thailand had greatly benefited from the work of UNCITRAL. The Legislative Guide on Secured Transactions, for example, had served as a reference for the drafting of its 2016 Secured Transactions Act. More recently, the Model Law on Public Procurement had facilitated the drafting of the Public Procurement and Supplies Management Act, which had come into force in August 2017. Thailand hoped to be able to accede to the Convention on Contracts for the International Sale of Goods in the near future.

85. Thailand was also studying the Model Law on Cross-Border Insolvency and the Rules on Transparency in Treaty-based Investor-State Arbitration with a view to exploring options for bringing its legislation further into line with international standards, and it thanked the UNCITRAL secretariat and UNCITRAL Regional Centre for Asia and the Pacific for providing valuable technical assistance in reading and applying those texts and in promoting a better understanding of international trade law.

86. Thailand welcomed the adoption of the Model Law on Electronic Transferable Records and its explanatory notes and the Guide to Enactment of the Model Law on Secured Transactions. Those documents would provide legal certainty for cross-border commercial activities worldwide.

87. Thailand welcomed the Commission's decision to entrust Working Group III with a mandate to address the possible reform of investor-State dispute settlement. That decision would facilitate the identification and consideration of concerns and allow member States to further deliberate on the desirability of such reform and possible ways forward. The Working Group must conduct its work in a transparent, consensus-based and inclusive manner, allowing both developed and developing countries to participate fully in the discussions. It should begin with a broad approach, looking not only at procedural but also substantive issues. Suitable topics might include the legal status of joint interpretations of investment treaties, the scope of policy space needed by the host States to protect their legitimate public interests, and the means of ensuring independence and impartiality of arbitrators.

88. As UNCITRAL celebrated its fiftieth anniversary, it was time for it to take stock of its past work and re-calibrate its goals and visions. To remain relevant and legitimate, the Commission must ensure that its work was consistent with the 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda on Financing for Development, and it must step up its efforts to engage with wider stakeholders and work more closely with other United Nations agencies on mainstreaming the Sustainable Development Goals in their agendas and activities.

89. **Mr. Mpongosha** (South Africa) said that many areas of the Commission's work had the potential to greatly benefit developing countries. The work on micro, small and medium-sized enterprises, for example, could make valuable contributions to streamlining the process of establishing limited liability organizations in many States. The Commission's work on electronic commerce would help harmonize rules in an area of trade law that affected consumers in both developed and developing countries.

90. Noting the change of topic of Working Group III, his delegation welcomed the increased focus on investor-State dispute settlement. UNCITRAL had been one of the very few international forums to have consistently focused on the concerns raised on that topic by a number of States, including South Africa.

91. One aspect of the re-classification of Working Group III raised some concern. Work on investor-State dispute settlement had traditionally been undertaken by Working Group II. It therefore appeared that the mandate of Working Group II had been eroded to allow for the new mandate of Working Group III. His delegation hoped that, in practice, the new mandate of Working Group III would not adversely affect the work of Working Group II.

92. South Africa was encouraged by the efforts being made by the UNCITRAL secretariat to provide technical cooperation and assistance for the promotion and adoption of UNCITRAL texts. However, the first step to that end should be to broaden participation by member States, especially the developing and least developed countries, in the Commission's work, thereby encouraging wider approval and acceptance of

UNCITRAL texts. His delegation would welcome initiatives aimed at improving the resources and funding of UNCITRAL to that end.

93. **Mr. Fernández Valoni** (Argentina) said that the work of UNCITRAL on the harmonization and progressive development of trade law had helped to promote trade and investment through the elaboration of language and terms that ensured predictability for the business community. Argentina had ratified a number of UNCITRAL instruments and participated actively in its various projects and working groups.

94. His delegation welcomed the work completed by Working Group VI, which had led to the adoption of the Model Law on Secured Transactions and its Guide to Enactment, on the basis of which a number of States had undertaken reforms to modernize their domestic framework, reducing risk and lowering interest rates so as to facilitate greater investment in infrastructure.

95. Working Group I had made perceptible progress in the elaboration of a draft legislative guide on principles for simplifying the requirements and procedures for registering micro, small and medium-sized enterprises. That draft, together with the draft legislative guide relating to a simplified business entity, would be particularly useful for the creation and promotion of such businesses, since it reduced substantive and formal requirements. For its part, Argentina had recently introduced legislation to facilitate the registration of businesses.

96. His delegation was pleased that Working Group II was elaborating an instrument for the recognition of the effects and enforcement of agreements resulting from mediation and/or conciliation proceedings. The conclusion of such an instrument would make alternative dispute settlement mechanisms more effective, since it would give them a transnational effect similar to that of judgments. Argentina was also pleased that the Commission had mandated Working Group III to analyse the possible reform of the investor-State dispute settlement system to make it more coherent, predictable and legitimate. In that connection, he noted that the establishment of a legal framework which facilitated trade and investment must serve to promote sustainable development, a cornerstone of the rule of law.

97. **Mr. Varankov** (Belarus) said that his delegation welcomed the adoption of the Model Law on Electronic Transferable Records, which contributed to the transnational use of trade documents not only through the proposal of a unified neutral text for adoption by all legal systems but also through provisions regulating transnational aspects of electronically transferred records. The simplification of such procedures was an important step towards expanding trade and cooperation at the international level.

98. With regard to the work of Working Group IV, his delegation agreed that it would be useful to elaborate a document outlining contractual issues of cloud computing and attendant legal aspects; such a document would serve as a guide for national regulation of those questions and spur the development of the relevant technologies. Special attention should be given to cloud service risk distribution mechanisms and the access of government bodies to data.

99. Belarus acknowledged the importance of the expansion of the provisions of the UNCITRAL Model Law on Cross-Border Insolvency and its legislative guide on the subject. Cooperation and direct interaction between courts of various jurisdictions on the insolvency procedures of multinational enterprise groups would facilitate and promote the protection of creditors' interests.

100. Belarus acknowledged the utility of providing a special insolvency regime for micro, small and medium-sized enterprises to meet their needs and to avoid the application of excessively formal and strict norms of corporate law to such businesses.

101. His delegation supported the work of UNCITRAL to enhance existing trade dispute settlement mechanisms. Alternative mechanisms were becoming increasingly relevant for settling investment disputes, with the participation of an impartial, neutral third party. However, the development of such mechanisms was hindered by the fact that settlements arrived at under those procedures were impossible to enforce abroad through simplified procedures. Belarus noted, in that regard, the importance of developing a document on enforcement of international settlement agreements resulting from conciliation procedures, currently under consideration in Working Group II. In addressing key controversial issues as part of elaborating specific language for that document, it was important to take account of best practices in implementing existing UNCITRAL documents. His delegation supported the development of draft legislative guides on the enforcement of international settlement agreements resulting from conciliation.

102. The reform of investor-State dispute settlement should remain a priority issue on the Commission's agenda. The round-table discussions held during the UNCITRAL Congress had clearly demonstrated the relevance of the issue as well as the broad range of aspects requiring discussion and coordination.

Defining the specific parameters for the reform would require reaching an agreement on several aspects relating to the format and the procedures of the activity of the relevant arbitration or judicial body, defining its scope of jurisdiction, deciding on the existence and format of an appeal authority, choosing rules and other applicable documents, and selecting and appointing arbiters. Work on those issues would result in a document with great practical value.

103. His delegation commended the work of national correspondents and the UNCITRAL secretariat in maintaining the specialized online cloud database, a convenient and effective instrument for exchanging best practices and sharing knowledge.

104. Belarus stressed the important role of UNCITRAL in promoting the rule of law at the national and international levels, which was facilitated by its work on settling national and regional disputes, enforcing the international legal obligations of international parties, elaborating instruments to regulate international trade and accumulating experiences and best practices.

105. The success of UNCITRAL and of its legal standards was largely due to its depoliticized nature and the high level of its expertise, something which should serve as an example for other multilateral forums.

106. **Mr. Zappalà** (Italy) said that Italy attached great importance to the work of the Commission and its working groups. It regarded UNCITRAL as a forum for identifying mutually agreed tools to improve the rules and regulations in respect of international trade law and to assist member States in adapting their laws to the changing needs of the times, including in connection with new technologies. It emphasized the expert nature and quality of the discussions in the working groups and the effective way in which meetings were held, both in Vienna and New York.

107. His delegation welcomed the results of the fiftieth session of UNCITRAL. The Commission had shown that, notwithstanding persistent differences in legal systems and domestic agendas, member States could work together to reach common solutions and demonstrate the value that they all attached to the role of the rule of law in favouring international trade and sustainable development.

108. Italy was confident that, as in the past, UNCITRAL would continue to achieve positive results in addressing challenging topics and that it would make every effort to reach shared solutions and strengthen the participation of all member States from all regions of the world.

109. **Mr. Smith** (United Kingdom) said that over the past 50 years, UNCITRAL had made great strides in advancing the progressive modernization and harmonization of the rules of international trade law.

110. The United Kingdom continued to support Working Group I and commended the expert group for arriving at a text for the Working Group to consider for adoption by the Commission in 2018. Moreover, Working Group II had progressed well in finding compromises between those States that wanted a convention and those that were sceptical. He hoped that the proposed session in February 2018 in New York would be able to resolve outstanding issues. His delegation looked forward to further discussion of investor-State dispute settlement reform, once the scoping work was completed.

111. Concerning the work of Working Group IV, the United Kingdom continued to favour the inclusion of verified electronic identity and strong authentication with regard to online digital transactions supporting international trade. Electronic identity continued to be a significant concern internationally, a key element being the creation of interoperability and trust frameworks. In the European Union, a number of provisions required the financial sector to adopt strong authentication and verification of identity measures, and the European Union was also pushing for legislation to create a single point of access for business services to be made available across the Union, all of which relied upon electronic identity for their delivery in the proposed single digital gateway.

112. Having submitted a proposal regarding outcome-based standards and interoperability of digital identity to the Working Group, and having collaborated with other European Union member States on a separate proposal describing legal issues relating to electronic identity management and trust services, the United Kingdom looked forward to the electronic identity and trust services expert group meeting, to be held in Vienna in November, to the fifty-sixth session of Working Group IV, to be held in April 2018, and to further consideration of electronic identity and trust services based on the outcomes of the November meeting.

113. Working Group V had made good progress on the development of legislative provisions for multinational enterprise group insolvency and model law provisions for the recognition and enforcement of insolvency-related judgments. It was to be hoped that

both texts could be agreed at the forthcoming meetings in Vienna and New York.

114. At its fifty-first session, Working Group V had also discussed the topic of insolvency of micro, small and medium-sized enterprises. In 2014, the Commission had added that topic to the mandate, and it had been suggested in preliminary discussions in New York that the UNCITRAL Legislative Guide on Insolvency Law could provide an appropriate framework for structuring work on the topic; the United Kingdom looked forward to that work progressing at future sessions.

115. The United Kingdom was pleased that the Guide to Enactment of the Model Law on Secured Transactions had been finalized and adopted at the fiftieth session of UNCITRAL.

116. **Mr. Gorostegui Obanoz** (Chile) said that his country had always supported the Commission's work on the understanding that, based on equality, equity, shared interest, and respect for and promotion of the rule of law, it contributed to better coherence and creativity in the unification and harmonization of international trade law, bearing in mind the different realities, traditions and approaches of States. Chile had regularly put forward ideas aimed at ensuring that the work of UNCITRAL was consistent with the 2030 Agenda for Sustainable Development, the elaboration of creative legislation on international trade law and the introduction and dissemination of its benefits at the national level.

117. Chile endorsed the Commission's work aimed at the preparation of norms on transparency and the adoption of objective criteria designed to help combat corruption, which was a challenge to the advancement of trade.

118. His delegation appreciated the proposals made for the reform of investor-State dispute settlement. With regard to the mandate to identify possible areas for a review of the current system, his delegation favoured an inclusive dialogue that took account of the sensitivities of all States on the question. It also reiterated the importance of working in the framework of a multilateral organization responsible for reaching a consensus on a possible reform. Accordingly, it supported the flexible content of the Commission's mandate, which would make it possible to move ahead with the work cautiously and responsibly.

119. His delegation endorsed the proposals contained in the documents on a model law on electronic transferable records and its explanatory notes and the Guide to Enactment, that would strengthen the work of UNCITRAL on the basis of flexible, targeted legislation, towards modernization that helped bring regional and global realities better into line with the multilateral system of the United Nations.

120. **Mr. Bawazir** (Indonesia) welcomed the Commission's role in furthering the progressive harmonization and unification of the private law of international trade in the interest of all people, particularly those of the developing countries. His delegation underscored the importance of the contribution of the rule of law to the achievement of the Sustainable Development Goals.

121. Indonesia welcomed the adoption of the Model Law on Electronic Transferable Records and its explanatory notes, and the adoption of the Guide to Enactment. The Model Law had provided guidance to Indonesia in designing its national legislation on electronic transactions.

122. Indonesia strongly supported the work of Working Group I to prepare a legislative guide aimed at reducing the legal obstacles encountered by micro, small and medium-sized enterprises. The legislative guide should be a flexible text that would enable States to simplify and facilitate the activities of such enterprises and at the same give them the opportunity to compete and grow. That was particularly important for Indonesia, where micro, small and medium-sized enterprises accounted for 99 per cent of all businesses and nearly 60 per cent of GDP. His delegation also appreciated the initial work that had been done on the topic of insolvency of micro, small and medium-sized enterprises.

123. His delegation took note that the work of Working Group II was already at an advanced stage. It appreciated the options chosen by that Working Group concerning the draft provisions on enforcement of international commercial settlement agreements resulting from conciliation, without prejudice to the instrument's final form.

124. As for Working Group III, Indonesia welcomed the Commission's cautious approach to the topic of investor-State dispute settlement. The deliberations should always be based on the need to strike a balance between protecting investors in the host State and providing room for the host State to assert and advance its national interests.

125. Indonesia stressed the importance of technical cooperation and assistance to developing countries, specifically in matters at the national level relating to the adaptation and use of texts adopted by the Commission, and encouraged the secretariat to

continue to provide such assistance as broadly as possible and to improve its outreach, particularly to the developing countries.

126. Indonesia expressed its continuous support for UNCITRAL in its work and looked forward to further harmonization and modernization of trade law, in particular in its region.

127. **Mr. Aldoseri** (Bahrain) said that his country had always been a strong supporter of the work of UNCITRAL. His delegation drew attention to the Commission's approval of the proposal by Bahrain to establish an UNCITRAL regional centre for the Middle East and North Africa that would provide technical assistance to States on the adoption, use and understanding of UNCITRAL texts; to work with international and regional organizations on trade law reform projects in the region; to coordinate communication between States in the region and UNCITRAL and its secretariat; and to build and participate in regional partnerships and alliances, including with other United Nations bodies. Bahrain welcomed the progress made and looked forward to finalizing that process.

128. **Ms. Cerrato** (Honduras) said that her delegation greatly appreciated the substantive work of UNCITRAL and had participated actively in the Commission since 2008. UNCITRAL had undertaken important work on traditional arbitration and conciliation; moreover, its work on online dispute resolution had assumed particular significance in the context of globalization. It was expected that Honduras would soon incorporate the e United Nations Convention on Transparency in Treaty-based Investor-State Arbitration, the Model Law on Electronic Transferable Records and similar instruments into its domestic legal system.

129. In its efforts to improve its production infrastructure, Honduras had launched a national economic development programme through which it aimed to double private investment and employment by 2020 in strategic sectors of the economy. To that end, it was taking steps to accede to the aforementioned instruments so as to make Honduras even more attractive for foreign investment and thereby enable it to meet the Sustainable Development Goals.

130. **Mr. Simonoff** (United States of America) said that his Government welcomed the adoption, after years of discussion, of the Model Law on Electronic Transferable Records, and it encouraged States to consider implementing the Model Law if their domestic law did not already provide an adequate framework enabling electronic equivalents of paper-based transferable documents or instruments to be used in commerce.

131. His delegation was pleased that UNCITRAL had adopted the Guide to Enactment of the Model Law on Secured Transactions, which would assist States in using the Model Law to reform their domestic legal regime in ways that would facilitate access to credit, in particular for micro, small and medium-sized enterprises.

132. His delegation welcomed the Commission's plan to elaborate a convention that could help to promote the use of conciliation internationally in the same way that the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) had helped to promote the use of arbitration. The approach endorsed at the fiftieth session would ensure that the convention covered not only enforcement of conciliated settlements but also the most relevant aspect of recognition of those settlements, namely the use of settlements in defence against a claim.

133. His Government was also encouraged to see UNCITRAL continue to discuss various ways of improving its working methods and becoming even more efficient. At the fiftieth session, several valuable ideas had been discussed, such as structuring the agenda to permit States to deliberate on the overall work programme before the session focused on individual topics and relying more on written reports in order to improve the utilization of conference time.

134. In 2016, his delegation had informed the Commission that the United States had taken steps towards becoming party to three conventions negotiated at UNCITRAL by transmitting them to the United States Senate for approval. Subsequently, in December 2016, the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration had also been transmitted to the Senate for approval.

135. **Mr. Heumann** (Israel) said that his delegation noted with appreciation the discussions in Working Group I regarding the creation of an enabling legal environment for small and medium-sized enterprises, and it looked forward to participating in the Working Group's upcoming deliberations. That was also the case with respect to the work of Working Group VI on a practice guide for secured transactions.

136. Concerning Working Group II, Israel endorsed the decision to allow work on an international convention to continue. Such an instrument would not only promote the use of conciliation when cross-border

transaction disputes arose, but would also provide member States with the guidance needed to deal with such agreements properly. His delegation thanked the participants of the Working Group for their willingness to compromise, which enabled the Working Group to move ahead.

137. Israel looked forward to participating in the newly created Working Group III (Investor-State Dispute Settlement Reform). However, its support for continued work in that area did not necessarily imply support for the idea of a permanent court or an appellate mechanism, nor did it mean that Israel would join a convention on that issue if such an instrument were to be finalized.

138. Working Group IV had also embarked on a new path in the fields of identity management and cloud computing. Those matters were crucial for the digital economy, and UNCITRAL should continue to position itself in those areas. Noting that the Working Group would be developing a "checklist" for cloud service contracts, his delegation believed that that should be seen as a first step and that the Working Group should eventually broaden its work in that area.

139. Israel was currently in the final stages of adopting the UNCITRAL Model Law on Cross-Border Insolvency. His delegation was pleased about the progress made in the meetings on the current projects being discussed in Working Group V and looked forward to continued involvement in its work.

140. To build on past success, there was room for continued innovation and greater efficiency in UNCITRAL. Some positive changes had taken place in the past few years, and Israel encouraged other UNCITRAL members and the secretariat to remain engaged on that path, based on constructive dialogue, with the aim of enhancing the participation of member States in the work of UNCITRAL and, in particular, in the annual meetings of the Commission, which Israel viewed as key in the decision-making process of UNCITRAL.

141. **Mr. Ichatchoumo** (Cameroon) welcomed the progress made by the various UNCITRAL working groups in carrying out their mandates. Cameroon was particularly pleased that UNCITRAL had adopted the Model Law on Secured Transactions, its Notes on Organizing Arbitral Proceedings and its Technical Notes on Online Dispute Resolution. The use of texts elaborated by the Commission would facilitate the unification and harmonization of international trade law, hence the need for States to consider signing and ratifying the UNCITRAL conventions, to adopt laws based on the model laws and to promote the use of other texts emanating from that work.

142. Cameroon welcomed those reforms; as a member of the Organization for the Harmonization of Business Law in Africa (OHADA), it planned to encourage that subregional body to make use of those texts. His delegation commended the Commission's initiatives aimed at coordinating the work of international and regional organizations active in the area of trade law, strengthening cooperation between them and promoting the rule of law at the national and international levels. He highlighted the importance of the Commission's work in the field of technical cooperation and assistance and the reform of international law.

143. His delegation welcomed the General Assembly's decision to grant observer status to the International Chamber of Commerce, which would provide the business world with additional opportunities to contribute to achievement of the goals of the Organization and implementation of its programmes.

144. With regard to the Technical Notes on Online Dispute Resolution, although progress had been made in elaborating regulations in that area, Cameroon reiterated its concern regarding the digital inequality between States of the North and those of the South. Reform would be less relevant if it was not accompanied by technical and financial assistance to those countries that had difficulties adopting new regulations.

145. Cameroon reaffirmed its proposal to host a regional UNCITRAL centre for Africa to disseminate information on, heighten awareness of and promote interest in the Commission's work, and to facilitate the adoption, use and understanding of UNCITRAL texts in Africa.

146. **Mr. Bentaja** (Morocco) commended UNCITRAL for the work carried out over the past 50 years in developing and promoting international trade law. His delegation welcomed the adoption of the Model Law on Secured Transactions and the Model Law on Electronic Transferable Records, two areas of crucial importance for the development of international trade. It commended the work currently under way on insolvency of micro, small and medium-sized enterprises and on the reform of the investor-State dispute settlement mechanism to protect investors in one country from expropriation or losses in another country.

147. Many of the issues under discussion in UNCITRAL had also been addressed in other

international bodies. For example, the World Trade Organization had been considering the question of investment since 1999, and it had adopted a decision on electronic trade in 1998. Thus, cooperation between UNCITRAL and the World Trade Organization on those topics was important, especially in the light of efforts to reform the investor-State dispute settlement system. The synergies between UNCITRAL and the World Trade Organization would not fail to have an enriching effect. If forward-looking cooperation did not begin without delay, a conflict of jurisdiction might arise later, and decisions adopted by UNCITRAL, whether on electronic transactions, on other areas of international trade or on the environment, might be rejected by the World Trade Organization. Those potential problems must be avoided.

148. **Ms. Murali** (Observer for the International Chamber of Commerce) said that the agenda item on the work of UNCITRAL was of particular importance to the International Chamber of Commerce. Since 1946, when it had been granted general consultative status with the Economic and Social Council, the Chamber had actively participated in numerous meetings, conferences and events to contribute to capacity-building on trade, investment and vital global issues, with a focus on supporting the developing States.

149. To meet ever more complex and difficult challenges, including climate change, and to attain the Sustainable Development Goals, inclusive, multilateral and multi-stakeholder engagement was critical. For that reason, UNCITRAL was a vital partner of the Chamber.

150. Historically, the International Chamber of Commerce had contributed to the work of UNCITRAL through the numerous international trade law-related instruments it had drafted, such as Incoterms 2010, Uniform Customs and Practice for Documentary Credits, the Rules on International Standby Practices and the Uniform Rules for Demand Guarantees, which had been recommended by UNCITRAL for use or adoption.

151. The Chamber was pleased that, at its forty-ninth session, the Commission had adopted a decision endorsing the Chamber's Uniform Rules for Forfaiting. That endorsement would facilitate, without recourse, the financing of receivables arising from international trade transactions by providing a new set of rules applicable to forfaiting transactions. The Commission had noted that the Uniform Rules for Forfaiting complemented a number of international trade law instruments, including the United Nations Convention on the Assignment of Receivables in International Trade and the UNCITRAL Model Law on Secured Transactions.

152. UNCITRAL had reached a milestone in 2017 in celebrating its fiftieth anniversary. The International Chamber of Commerce was committed to enhancing its collaborative work with UNCITRAL and all stakeholders to maximize the potential of the multi-stakeholder platform that UNCITRAL provided in promoting open international trade and investment for economic development and prosperity around the world.

The meeting rose at 1 p.m.

United Nations A/C.6/72/SR.11

General Assembly
Seventy-second session

Official Records

Distr.: General
30 November 2017

Original: English

Sixth Committee

Summary record of the 11th meeting
Held at Headquarters, New York, on Monday, 9 October 2017, at 3 p.m.

Chair: Mr. Gafoor (Singapore)

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The meeting was called to order at 3.10 p.m.

General statements on requests for observer status

1. **Ms. Guardia Gonzalez** (Cuba) said that the criteria for granting of observer status in the General Assembly as set out in General Assembly decision 49/426 must be strictly applied. Such status must be granted solely to intergovernmental organizations whose activities covered matters of interest to the Assembly. The issue was not a mere formality, and the procedure for analysing each request for observer status must therefore be followed. It was not possible to decide whether to grant an organization such status unless a copy of its constitutive instruments and information on its objectives and membership were available. The discussion of requests and the adoption of the relevant resolutions should take place at a meeting specifically designated for that purpose, as had been the case for several years. Her delegation was grateful to the Secretariat for its efforts to facilitate the consideration of requests for observer status in a more coordinated and coherent manner.

2. **Ms. Fernandes Juarez** (Bolivarian Republic of Venezuela) said that it must be verified that any organization requesting observer status met the conditions stipulated in General Assembly decision 49/426, namely that it was an intergovernmental organization and was engaged in activities of interest to the Assembly. In addition to information about the organization's objectives and membership, it was essential that its constitutive document should be made available to the Committee so that it could ascertain the nature of the organization and ensure that it met the criteria set by the General Assembly.

Agenda item 167: Observer status for the Cooperation Council of Turkic-speaking States in the General Assembly (A/66/141; A/C.6/72/L.3)

Draft resolution A/C.6/72/L.3: Observer status for the Cooperation Council of Turkic-speaking States in the General Assembly

3. **The Chair** recalled that, at its sixty-sixth to seventy-first sessions, the General Assembly had decided to defer to its subsequent sessions decisions on the request for observer status for the Cooperation Council (General Assembly decisions 66/527, 67/525, 68/528, 69/527, 70/523 and 71/524). If he heard no objection, he would take it that the Committee wished to recommend that the General Assembly defer to the seventy-third session a decision on the relevant request.

4. *It was so decided.*

Agenda item 168: Observer status for the Eurasian Economic Union in the General Assembly (A/70/141; A/C.6/72/L.2)

Draft resolution A/C.6/72/L.2: Observer status for the Eurasian Economic Union in the General Assembly

5. The Chair recalled that, at its seventieth and seventy-first sessions, the General Assembly had decided to defer to the current session a decision on the request for observer status for the Eurasian Economic Union in the General Assembly (General Assembly decisions 70/524 and 71/525). If he heard no objection, he would take it that the Committee wished to recommend that the General Assembly defer to the seventy-third session a decision on the request.

6. *It was so decided.*

Agenda item 169: Observer status for the Community of Democracies in the General Assembly (A/70/142; A/C.6/72/L.5)

Draft resolution A/C.6/72/L.5: Observer status for the Community of Democracies in the General Assembly

7. The Chair recalled that, at its seventieth and seventy-first sessions, the General Assembly had decided to defer to the current session a decision on the request for observer status for the Community of Democracies in the General Assembly (General Assembly decisions 70/525 and 71/526). If he heard no objection, he would take it that the Committee wished to recommend that the General Assembly defer to the seventy-third session a decision on the request.

8. *It was so decided.*

Agenda item 170: Observer status for the International Network for Bamboo and Rattan in the General Assembly (A/72/141; A/C.6/72/L.8)

Draft resolution A/C.6/72/L.8: Observer status for the International Network for Bamboo and Rattan in the General Assembly

9. **Mr. Li** Yongsheng (China), introducing draft resolution A/C.6/72/L.8, said that Brazil, Eritrea and the Philippines had become sponsors. The International Network for Bamboo and Rattan (INBAR) fully met the criteria for observer status in the General Assembly. It was the only intergovernmental organization that specialized in the conservation and development of bamboo and rattan. Its objective was to contribute to the realization of sustainable environmental, social and economic development through international cooperation in bamboo and rattan conservation and development and to protect the environment, eradicate

poverty and promote the industry's development. The Network's activities were in keeping with the purposes and principles of the United Nations and were also closely linked to the 2030 Agenda for Sustainable Development. In particular, it directly supported the achievement of Sustainable Development Goals 1, 7, 11, 12, 13 and 15.

10. The Network had engaged in cooperative activities for the conservation and sustainable use of bamboo and rattan resources and had worked to facilitate their trade. It had carried out projects to raise local populations' awareness of the socioeconomic value of bamboo and rattan resources and open up new prospects for their use. In the area of technical support, capacity-building and policy, the Network had proposed innovative development models centred on bamboo and rattan and had supported poverty alleviation activities that promoted the development of the bamboo and rattan industry in an inclusive and environment-friendly manner.

11. **Mr. Winegue** (Togo) said that the International Network on Bamboo and Rattan, of which Togo was a member, was contributing to the achievement of the Sustainable Development Goals, especially in the areas of poverty reduction, energy, housing, sustainable production and consumption, climate change and sustainable development. Since its creation in November 1997, the Network had had a tangible impact on the lives of millions of people around the world and had contributed immensely to the protection of the environment, including through the restoration of 85,000 hectares of degraded land in north-east India. It had also provided training in new techniques and technologies to tens of thousands of people involved in the production, protection and processing of bamboo.

12. The organization enjoyed great prestige and influence in the world and had already been granted consultative status in the Economic and Social Council, the United Nations Environment Programme and various other United Nations bodies. Granting it observer status in the General Assembly would serve to encourage the Network to continue promoting sustainable socioeconomic development that was respectful of the environment and would enable it to collaborate and cooperate more closely with the United Nations in those and other areas of common interest.

13. **Mr. Nguyen** Nam Duong (Viet Nam) said that bamboo and rattan were the two most important non-timber forest products in Asia and other regions and had the potential to contribute greatly to socioeconomic development in rural areas. Through the promotion of bamboo and rattan production, INBAR had contributed to the realization of the Sustainable Development Goals, especially in relation to hunger eradication, poverty reduction, responsible consumption and production, climate action, affordable and clean energy, sustainable forest management and prevention of desertification and land degradation. Viet Nam had been a member of INBAR since 1999 and had worked with other members in sharing experiences in developing bamboo and rattan resources, applying innovative business models and value chains and tapping regional and global markets for bamboo and rattan products. The approval of observer status for INBAR would encourage greater cooperation between the Network and the United Nations and assist the Network's member countries in achieving the Sustainable Development Goals.

14. **Ms. Samarasinghe** (Sri Lanka) said that in Sri Lanka, which had joined INBAR in 2000, bamboo resources served as raw materials for cottage handicraft industries and for housing and construction purposes, providing income for rural families and supporting household economies. The work of INBAR was contributing to the achievement of the Sustainable Development Goals relating to poverty alleviation, sustainable energy, housing, sustainable production and consumption, land degradation and climate change. The Organization also played a vital role in South-South cooperation. Her delegation believed that observer status in the General Assembly would help the Network to further its global efforts to promote the Sustainable Development Goals through its work and to establish international standards and harmonize codes for bamboo and rattan products.

15. **Ms. Guardia González** (Cuba) said that INBAR had helped countries to improve their environmental security and the livelihood of their rural populations. It was contributing to the achievement of the Sustainable Development Goals related to poverty reduction, energy, sustainable production and consumption and action to combat climate change and the loss of biodiversity. By fostering partnerships and South-South cooperation, it was also contributing to Goal 17. Granting the organization observer status in the General Assembly would promote its work and help to build sustainable solutions to future development challenges.

16. **Ms. Fernández Juárez** (Bolivarian Republic of Venezuela) said that INBAR was of great importance to the bamboo- and rattan-producing countries, including Venezuela. The Network met the criteria set out in General Assembly decision 49/426, and her delegation invited all Member States to support its application for observer status. The Network's participation in the work of the General Assembly would contribute to the Organization's efforts to promote South-South

cooperation and forge stronger partnerships in order to address global challenges and achieve sustainable development.

17. **Mr. Dos Santos Pereira** (Timor-Leste) said that Timor-Leste was currently engaged in a domestic process aimed at becoming a full member of INBAR and thus realizing the potential of the bamboo and rattan industries to contribute to its economic development. His delegation welcomed the organization's work to promote the economic potential of bamboo and rattan resources to fight poverty and social exclusion and supported its request for observer status. INBAR played a unique role in supporting its members in finding innovative ways of using bamboo and rattan to protect environments and biodiversity and to alleviate poverty. It connected a global network of partners from the government, private, and non-profit sectors to define and implement a global agenda for sustainable development with bamboo and rattan. Achieving observer status in the General Assembly would afford the Network the opportunity to further align its work with the 2030 Agenda for Sustainable Development and contribute to the development of further partnerships to meet global challenges.

18. **Mr. Kabir** (Bangladesh) said that the mission of INBAR, of which Bangladesh was a founding member, was to improve the well-being of bamboo and rattan producers within the context of sustainable production. It coordinated and supported innovative research and development and had provided training to tens of thousands of bamboo producers in how to use new technologies and techniques, while also helping them to enter new markets in order to improve their livelihood. Observer status in the General Assembly would help INBAR to further align its work with the sustainable development endeavours of the United Nations and to forge partnerships to meet global challenges.

19. **Mr. Poudel Chhetri** (Nepal), noting that Nepal was one of the nine founding members of INBAR, said that the Network's activities were in keeping with the purposes and objectives of the United Nations and related to matters of interest to the General Assembly, particularly the 2030 Agenda for Sustainable Development. His delegation was convinced that obtaining observer status in the General Assembly would enable the Network to realize its full potential and contribute to the achievement of the Sustainable Development Goals.

20. **Mr. Horna** (Peru), endorsing previous speakers' expressions of support for INBAR, said that the Network had carried out projects in Peru as part of a trilateral Andean programme relating to prevention and mitigation of natural disasters, reconstruction of areas affected by such disasters and construction of sustainable housing, among other areas. His delegation believed that the Network's priorities were fully in line with the 2030 Agenda for Sustainable Development and supported its recognition as an observer in the General Assembly.

21. **Mr. Oña Garces** (Ecuador) said that INBAR had been, for some 20 years, supporting the use of bamboo and rattan resources to enhance environmental security and improve the livelihoods of populations in its member countries, including Ecuador. It was also contributing to the achievement of the Sustainable Development Goals. His delegation supported the draft resolution and encouraged other delegations to do likewise.

Agenda item 171: Observer status for the ASEAN+3 Macroeconomic Research Office in the General Assembly (A/72/142; A/C.6/72/L.9)

Draft resolution A/C.6/72/L.9: Observer status for the ASEAN+3 Macroeconomic Research Office in the General Assembly

22. **Mr. Tang** (Singapore), introducing draft resolution A/C.6/72/L.9 on behalf of his delegation and that of China, said that Brunei Darussalam and Cuba had become sponsors. The ASEAN+3 Macroeconomic Research Office functioned as the regional macroeconomic surveillance unit for the members of the Association of Southeast Asian Nations (ASEAN), plus China, Japan and the Republic of Korea (ASEAN+3). It was an intergovernmental organization established by treaty. Its purpose was to contribute to the economic and financial stability of the ASEAN region by conducting regional economic surveillance and supporting the implementation of the Chiang Mai Initiative Multilateralization, a purpose that was consonant with the purposes and principles of the United Nations relating to the promotion of international cooperation in order to solve international economic problems. The Office thus met the criteria for observer status set out in General Assembly decision 49/426.

23. United Nations Member States had recognized in the Addis Ababa Action Agenda that a stable global macroeconomic environment would facilitate the implementation of policies that would contribute to sustainable development. Granting the Office observer status in the General Assembly would help establish a firm basis for regular and well-organized cooperation between it and the United Nations in the implementation of policies that would contribute to stability in the global macroeconomic environment. Given the

interconnectedness of the global economy with regional economies, increased exchanges with the General Assembly would enhance the Office's capacity to carry out its functions, particularly macroeconomic surveillance and formulation of policy recommendations to mitigate risks identified in the region. The General Assembly, in turn, stood to benefit from the Office's expertise in the ASEAN+3 region and its ability to provide input on macroeconomic surveillance, financial issues and the role of regional financial arrangements in global financial safety nets.

24. **Mr. Li** Yongsheng (China) said that the ASEAN+3 Macroeconomic Research Office was an intergovernmental organization whose activities covered matters of interest to the General Assembly. Its purposes were to promote regional economic and financial stability, monitor the situation of regional economies, support the implementation of the arrangement for multilateral liquidity within the framework of the Chiang Mai Initiative Multilateralization and provide technical assistance to its member States. His delegation was convinced that granting the Office observer status would enhance exchanges and cooperation between it and the United Nations with respect to policies governing the macroeconomic environment and would strengthen the Office's capacity to perform its functions for the benefit of its member States.

25. **Ms. Fernandez** (Philippines) said that, as the independent financial surveillance unit of ASEAN, the Office helped to secure the economic and financial stability of the region and avert financial crises such as the one that had occurred in 1997, which had threatened to cause a global economic meltdown. The Office helped to deepen regional cooperation by strengthening safety nets and decreasing balance-of-payments difficulties in the event of a crisis. Her delegation hoped that the Committee would give favourable consideration to the proposal to grant the Office observer status.

26. **Mr. Kajimoto** (Japan) said that the Asian financial crisis of 1997 had prompted policymakers to develop regional financial integration and cooperation mechanisms to manage future crises, a step which had paved the way for the regional financial framework embodied in the Chiang Mai Initiative Multilateralization and the ASEAN+3 Macroeconomic Research Office. Today, the Office played a vital role in ensuring the financial stability of the region by monitoring, assessing, and reporting on the macroeconomic and financial soundness of member countries and helping to implement the Chiang Mai Initiative Multilateralization.

27. Its activities not only benefited the region; they were also closely aligned with the aims of the United Nations, which in accordance with Article 55 of the Charter included creating conditions for economic and social progress and development and promoting solutions to international economic problems. The achievement of the Sustainable Development Goals would depend on international and regional economic growth. The Office could provide major support in that area by mitigating the impact of any future economic crises. Granting it observer status would also serve to expand partnerships between the United Nations and diverse regional organizations in the implementation of policies for sustainable growth.

Agenda item 172: Observer status for the Eurasian Group on Combating Money Laundering and Financing of Terrorism in the General Assembly (A/72/191; A/C.6/72/L.4)

Draft resolution A/C.6/72/L.4: Observer status for the Eurasian Group on Combating Money Laundering and Financing of Terrorism in the General Assembly

28. **Mr. Varankov** (Belarus), introducing draft resolution A/C.6/72/L.4, said that the Eurasian Group on Combating Money Laundering and Financing of Terrorism was an intergovernmental organization established in 2011 with the aim of ensuring effective cooperation at the regional level and integrating its member States into the international system for combating money-laundering and the financing of terrorism, in accordance with the international standards of the Financial Action Task Force and also in line with relevant standards of other international organizations. The Eurasian Group was an associate member of the Financial Action Task Force. All of the Group's member States had financial intelligence units and national systems for combating money-laundering and the financing of terrorism.

29. Membership in the Group was open to other States in the Eurasian region that shared its goals and principles, and States in other regions could obtain observer status in the Group. Fifteen States currently had observer status, as did 19 international organizations and structures, including the Financial Action Task Force, the United Nations Counter-Terrorism Committee, the International Monetary Fund, the World Bank, the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism and the Asia-Pacific Group on Money Laundering. The Group's members believed that granting it observer status in the General Assembly would promote effective cooperation between the Group and the United Nations and would

be in the interests of both organizations and their members, as it would help to ensure an effective fight against terrorism, which would not be possible without cutting off its sources of financing.

30. **Mr. Moldogaziev** (Kyrgyzstan), noting that the agreement establishing the Eurasian Group had been registered with the United Nations Secretariat in June 2016, in accordance with Article 102 of the Charter, said that the Group's primary goal was to ensure effective action and cooperation at the regional level in combating money-laundering and the financing of terrorism. His delegation hoped that other delegations would support the Group's application for observer status in the General Assembly.

31. **Mr. Li** Yongsheng (China) said that, as an intergovernmental organization whose activities covered matters of interest to the General Assembly, the Eurasian Group fully met the criteria for obtaining observer status in the General Assembly. Its main purpose was to facilitate effective regional interaction and cooperation in order to ensure compliance with the international standards set by the Financial Action Task Force and with other relevant international standards and to assist its members in integrating into the international system for combating money-laundering and terrorism financing. His delegation believed that granting the Group observer status would help enhance its exchanges and cooperation with the United Nations, increase its capacity to perform its functions and benefit the countries of the ASEAN region.

32. **Mr. Muhamedjanov** (Tajikistan) said that the Eurasian Group developed and conducted joint activities aimed at combating money-laundering and the financing of terrorism, coordinated international cooperation and technical assistance through joint programmes with specialized international organizations, analysed trends in money-laundering and terrorism financing and facilitated the exchange of best practices in combating those crimes, taking into account the specific characteristics of the region. His delegation believed that granting it observer status in the General Assembly would promote cooperation between the Group and the United Nations on a regular and orderly basis in the interests of both organizations and their members.

Agenda item 173: Observer status for the Ramsar Convention on Wetlands Secretariat in the General Assembly (A/72/194; A/C.6/72/L.6)

Draft resolution A/C.6/72/L.6: Observer status for the Ramsar Convention on Wetlands Secretariat in the General Assembly

33. **Ms. Sande** (Uruguay), introducing draft resolution A/C.6/72/L.6, said that Ecuador had become a sponsor. Reviewing the history of the Ramsar Convention on Wetlands, she recalled that article 8 of the Convention provided that the International Union for Conservation of Nature and Natural Resources (IUCN) would perform bureau duties under the Convention until such time as another organization or government was appointed by a majority of two-thirds of all contracting parties. In 1990 the Conference of the Contracting Parties had established a Convention Bureau co-located with the headquarters of IUCN, as an independent unit funded from the Convention budget that would perform all tasks required by the Conference of the Contracting Parties. In 2005, the Conference had decided that, in its external relations, the Bureau could use the term "the Ramsar secretariat". It had further decided that the secretariat would comprise a Secretary-General and other staff.

34. Over time, the Convention secretariat had been given increasing responsibility and had been entrusted with the authority to administer its own funds and enter into contracts, including cooperation agreements with other organizations. The secretariat's powers and authorities implied that it had international legal personality. The Ramsar Convention secretariat had been characterized as an intergovernmental organization by other entities. It had, for example, been included in the list of accredited intergovernmental organizations that could participate in the United Nations Conference to Support the Implementation of Sustainable Development Goal 14, where it had been listed among the intergovernmental organizations accredited as observers to the World Summit on Sustainable Development.

35. The Ramsar Convention was clearly linked to the Sustainable Development Goals, particularly Goals 2, 6, 13, 14 and 15. In 2012 the Conference of the Contracting Parties had adopted a resolution entitled "Wetlands and sustainable development", which had acknowledged the vital role of wetlands in sustainable development, and in 2015 it had adopted the Ramsar Strategic Plan 2016-2024, which focused on the rational use of wetlands and the achievement of the Sustainable Development Goals. In 2016 the Secretary-General of the Ramsar secretariat had made a presentation on the Convention and the Goals for representatives of United Nations Member

States in Geneva. The Chief of the Political Affairs and Partnerships Section of the United Nations Office at Geneva had been present at that event and had affirmed the political and economic importance of wetlands, many of which were located in countries and regions characterized by extreme poverty, lack of food security and deficient water and sanitation services. The Ramsar Convention played a key role in the conservation and protection of the environment and was aligned with the work of the United Nations in relation to sustainable development and the protection of marine biodiversity and ecosystems.

36. **Ms. Pierce** (United States of America), noting that the United States had been a party to the Ramsar Convention for more than 30 years, said that her delegation appreciated the important work that the Ramsar secretariat was doing to facilitate the implementation of decisions taken by the contracting parties with regard to wetlands conservation. Nevertheless, it had studied the application for observer status carefully and continued to have questions about the Convention secretariat's status as an intergovernmental organization that met the criteria set out in General Assembly decision 49/426. Her delegation acknowledged the positive contributions that the Ramsar secretariat could make to discussions relevant to its mandate and remained open to exploring other means to facilitate its appropriate participation in General Assembly meetings.

37. **Ms. Fernández Juárez** (Bolivarian Republic of Venezuela) said that Venezuela, which currently had five sites designated as wetlands of international importance, strongly supported the Ramsar Convention. Her delegation believed that the Ramsar Convention secretariat met the criteria for observer status as stipulated in General Assembly decision 49/426 and invited all Member States to support its application. The participation of the Ramsar secretariat in the debates of the Organization would contribute to the achievement of the Sustainable Development Goals and the objectives of the United Nations as a whole.

38. **Mr. Cuellar Torres** (Colombia) said that the Ramsar Convention was the intergovernmental treaty that set out the framework for the conservation and rational use of wetlands, which provided humanity with innumerable ecosystem services, including preservation of biodiversity and mitigation of climate change. As was clear from the explanatory memorandum submitted by the delegation of Uruguay (A/72/194), Ramsar was an intergovernmental organization whose activities were of interest to the General Assembly, and it therefore met the criteria for observer status in the General Assembly. His delegation invited others to support the draft resolution.

39. **Mr. Horna** (Peru) said that Peru had been a party to the Ramsar Convention since 1991 and currently had 13 sites designated as wetlands of international importance. His delegation believed that the secretariat of the Ramsar Convention met the requirements established by General Assembly decision 49/426. It supported the draft resolution and invited other delegations to consider also supporting it.

Agenda item 174: Observer status for the Global Environment Facility in the General Assembly (A/72/195; A/C.6/72/L.7)

Draft resolution A/C.6/72/L.7: Observer status for the Global Environment Facility in the General Assembly

40. **The Chair** said that he had been informed that the sponsors of the draft resolution had requested that the General Assembly defer until the seventy-third session a decision on the request for observer status in the Assembly for the Global Environment Facility. If he heard no objection, he would take it that the Committee wished to recommend that the General Assembly defer to the seventy-third session a decision on the relevant request.

41. *It was so decided.*

Agenda item 146: Administration of justice at the United Nations (A/72/138, A/72/204 and A/72/210)

42. **The Chair**, recalling that, at its second meeting, the General Assembly had referred the current agenda item to both the Fifth and Sixth Committees, said that in paragraph 46 of its resolution 71/266 the Assembly had invited the Sixth Committee to consider the legal aspects of the report to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibility for administrative and budgetary matters.

43. **Mr. Celarie Landaverde** (El Salvador), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that the Community was satisfied with the progress made since the inception of the new administration of justice system at the United Nations, which had helped to improve labour relations and work performance in the Organization. CELAC continued to support measures to protect the basic rights of United Nations personnel in conformity with internationally agreed standards, as well as all measures designed to help the United Nations to become a better employer and to attract and retain the best staff members. CELAC was mindful of the important role

that the Committee had played in making the administration of justice system fully operational by drafting the statutes and the amendments thereto of both the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, and would continue contributing its legal expertise for the resolution of all outstanding issues, such as those relating to the independent evaluation of the system, access to the justice system for persons with disabilities and other dispute resolution measures.

44. CELAC invited Committee members to review the recommendations and proposals contained in the Secretary-General's report (A/72/204), bearing in mind the principles of independence, transparency, professionalism, decentralization, legality and due process that should underpin the debate on the administration of justice at the United Nations. The Community reaffirmed its support for the work of the Office of Staff Legal Assistance and noted with satisfaction its visits to subregional offices to provide information about the internal justice system. The Internal Justice Council continued to play an important role in ensuring independence, professionalism and accountability in the administration of justice system, and it should continue to provide its views on the implementation of that system, within the purview of its mandate as established in paragraph 37 of General Assembly resolution 62/228. CELAC took note of the Council's report (A/72/210) and urged prompt implementation of the recommendations contained therein.

45. CELAC acknowledged the contribution of the Dispute and Appeals Tribunals to the administration of justice in the Organization. It stood ready to explore new ways to improve the use of informal mechanisms, such as mediation, and encouraged proper geographical and gender distribution in the designation of judges and staff. It stressed the importance of the Management Evaluation Unit, which provided the Administration with the opportunity to prevent unnecessary litigation before the Tribunals.

46. With regard to the report on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/72/138), CELAC remained of the view that more should be done to promote a culture of trust and conflict prevention throughout the Organization and to encourage the informal resolution of disputes. Accordingly, CELAC reiterated its request that the Secretary-General should ensure that the structure of the Office not only reflected its responsibility for oversight, but also that it had the support needed to perform its work, thus strengthening due process and ensuring accountability and transparency in decision-making.

47. The Sixth Committee should continue to cooperate closely with the Fifth Committee to ensure an appropriate division of labour and avoid encroachment of mandates in the work on the topic.

48. **Mr. Marbic** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Montenegro, Serbia and the former Yugoslav Republic of Macedonia; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia, the Republic of Moldova and Ukraine, said that the European Union continued to attach great importance to the efficient functioning of the system of administration of justice at the United Nations, which it considered instrumental to a positive work environment and to the achievement of the Organization's core goals and objectives. The system should be independent, transparent, professionalized, adequately resourced and decentralized and should operate in a manner consistent with the relevant rules of international law and the principles of the rule of law. It should ensure due process and respect for the rights and obligations of staff and the accountability of managers and staff members alike.

49. The informal resolution of disputes was a crucial element of the administration of justice system, as it provided a more flexible and faster means of problem-solving and helped to avoid time-consuming and stressful litigation processes. The European Union welcomed the activities of the Office of the United Nations Ombudsman and Mediation Services in that regard and supported its efforts to promote informal conflict resolution, in particular by facilitating access to and raising staff awareness of the informal justice system. It also welcomed the Office's expanded use of multilingual surveys and questionnaires as tools for receiving feedback and spotting trends and patterns. It was worrying, in that regard, that a survey conducted by the Office in 2016 had found that 60 per cent of respondents had experienced workplace conflict in the preceding three months. The European Union underlined the usefulness of organizing thematic informational sessions and workshops, skills-building initiatives and individual coaching in order to promote informal conflict resolution and develop conflict competence.

50. The European Union commended the work of the Management Evaluation Unit and noted with appreciation the high number of complaints disposed of every year. The fact that most of the Unit's decisions had been upheld in whole or in part by the Tribunals was a

good indicator of its effective approach, as was the relatively low proportion of cases challenged by staff members before the Dispute Tribunal. The European Union was also pleased that the Unit systematically sought to identify and, where appropriate, settle requests having the potential for informal resolution.

51. Since nearly 71 per cent of the requests for management evaluation received by the Unit in 2016 had come from staff in peacekeeping missions, he believed that it would be useful for the Office of Staff Legal Assistance and the United Nations Dispute Tribunal registries to continue to undertake outreach activities at the request of peacekeeping missions and also at the request of other United Nations offices. Such activities provided good opportunities to inform staff and managers about the internal justice system. The European Union appreciated the work of the Office of Staff Legal Assistance in raising awareness of the system and in providing legal guidance and representation to staff, thus helping to avoid conflicts and misunderstandings. The number of new cases before the Dispute Tribunal had stabilized over the previous two years, and the number of pending cases was also stable, indicating that the Tribunal continued to dispose of cases effectively. He noted that the Appeals Tribunal had also disposed of a high number of cases in 2016.

52. With regard to recommendation 58 of the Interim Independent Assessment Panel, concerning investigations into misconduct and harassment and the training provided by the Office of Internal Oversight Services to staff members on conducting peer-based investigations, the European Union noted that joint planning between that Office and the Administrative Law Section was intended to facilitate the development and delivery of training across the Secretariat during the last months of 2017.

53. The European Union continued to favour a differentiated system for the legal protection of non-staff personnel that would provide an adequate, effective and appropriate remedy. In the interests of promoting non-judicial approaches whenever possible, the Organization should always provide answers to such personnel and, where appropriate, propose possible remedies.

54. **Mr Rattray** (Jamaica), speaking on behalf of the Caribbean Community (CARICOM), said that CARICOM firmly supported any measures intended to strengthen the administration of justice at the United Nations and recognized the efforts made since 2009 to put in place an independent, transparent, professionalized, adequately resourced and decentralized system. In particular, it supported efforts to ensure that well-established principles of law, such as separation of powers and judicial independence, governed the management of the system. Fidelity to those principles must be matched by a commitment to ensuring the highest standards of accountability in the administration of justice. In order to ensure respect for the rights and obligations of staff members, as well as the accountability of staff members and managers, the system must operate in a manner consistent with the rules and principles of international law and the rule of law and due process.

55. The Community noted the considerable investments made by the Secretariat to implement systems aimed at improving labour relations between the Administration and staff. It recognized the work of the Dispute and Appeals Tribunals in helping to promote justice at the United Nations, but it would appreciate further analysis of the factors contributing to the relatively high rate of overturn by the Appeals Tribunal of cases coming from the Dispute Tribunal. He noted that the number of cases filed before the two tribunals in 2016 had decreased and that a significant percentage of cases had been resolved through the efforts of the Management Evaluation Unit. CARICOM recognized that the Sixth Committee had made an important contribution to the codification of rules through the drafting of the statutes of the two Tribunals and stood ready to collaborate in constructive dialogue to enhance mechanisms aimed at ensuring independence, accountability, transparency and fairness in the justice systems of the United Nations.

56. CARICOM noted that staff in peacekeeping missions represented a disproportionate percentage of the clients requesting legal assistance from the Office of Staff Legal Assistance. Furthermore, matters relating to appointments, benefits and entitlements accounted for a significant number of those requests. The Community underscored the need for an in-depth understanding of those trends and their significance to the Organization's operations, especially in the context of ongoing United Nations reform processes. Effective and efficient settlement of disputes, through both the informal and formal systems, was central to the Organization's ability to fulfil its mandate to promote peace and security, human rights and development. CARICOM welcomed the increasing involvement of the Office of the Ombudsman and Mediation Services in that regard. Staff and managers across the Organization should be encouraged to seek informal means of resolving conflicts. Informal resolution mechanisms promoted dialogue and fostered harmony in the workplace, helped to avoid unnecessary litigation and enhanced the

productivity and efficiency of staff and managers and the reputation and credibility of the United Nations.

57. CARICOM noted with concern the information in the report of the Internal Justice Council (A/72/210) regarding friction in the relationship between some Dispute Tribunal judges and some staff of the Tribunal Registry, which had affected productivity and morale. The Community supported the Council's recommendation that the respective responsibilities of Tribunal judges and Registry staff should be clearly delineated. The Council's observation regarding the inordinate length of time from filing to judgment — often more than a year — was also a concern. Mindful of the legal maxim that justice delayed was justice denied, CARICOM urged that steps be taken to ensure the timely disposition of cases.

58. **Ms. Boucher** (Canada), speaking also on behalf of Australia and New Zealand, said that the three delegations recognized the important steps taken since 2009 to build an effective, fair and impartial internal justice system. Such a system would enable the Organization to produce its best work and help to ensure that it continued to attract and retain the best and most qualified professionals from around the world. The three delegations welcomed the inclusion of the Code of Conduct for Legal Representatives and Litigants in Person in the annex to General Assembly resolution 71/266 and believed that the Code would help to ensure that all individuals acting as legal representatives for the United Nations were held to the same high standards of professional conduct.

59. In 2016, the majority of staff members filing cases with the United Nations Dispute Tribunal had been self-represented. It was important to note in that regard that, no matter how intelligent a person was, navigating a complex labour dispute with such a large organization could be daunting and overwhelming. It was essential for the United Nations to have a system that allowed its human resources professionals to effectively manage employees who were not meeting the Organization's high standards. It appeared, however, that only 1 per cent of staff received ratings suggesting they were underperforming, in part because managers feared that employees would lodge complaints that would not be dealt with fairly and expeditiously through the internal justice system. The three delegations believed that continued effort was needed to improve the performance management and internal dispute resolution systems in order to meet the needs of employees while also helping to create an efficient and dynamic United Nations.

60. The report of the Internal Justice Council (A/72/210) recognized the existence of concerns relating to the independence of the judges of the Dispute and Appeals Tribunals. The independence of judges was critical to the credibility of the internal justice system. Litigants must trust that judges would render an impartial opinion based on the facts and the applicable law, not the wishes of management. Australia, Canada and New Zealand looked forward to further reporting from the Secretary-General on strengthening and monitoring accountability in the system, as requested in General Assembly resolution 71/266. They welcomed the information provided in his report for the current session (A/72/204) on the categories of non-staff personnel and the remedies available to them. Such information would be useful for identifying where the system could be strengthened.

61. The development of a fair, transparent and efficient internal justice system would not happen overnight. It was an ongoing project that would require long-term support and commitment by all, including Member States, which should work together and share their ideas and experience in order to support the important work of strengthening the administration of justice at the United Nations. It was important for the internal justice system to reflect and embody the values of the Organization and also to support the Secretary-General's reform agenda. The three delegations looked forward to engaging constructively on the relevant issues, including with colleagues in the Fifth Committee.

62. **Ms. Carnal** (Switzerland) said that, while her delegation was pleased to note the progress made in implementing the recommendations of the Interim Independent Assessment Panel, it believed there was still room for improvement. In order to function fairly and effectively, the system for the administration of justice must be provided with the necessary resources. It was therefore worrying that certain key functions were currently under-resourced, including those of the Office of Staff Legal Assistance.

63. Her delegation remained concerned about ongoing problems with regard to whistle-blower protection and settlement of disputes involving non-staff personnel. Effective protection against retaliation was an indispensable attribute of a fair and effective internal justice system. She understood, however, that the new policy on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations, set out in the Secretary-General's bulletin (ST/SGB/2017/2), did not deal with retaliation for using the internal justice system, either by lodging a case or by appearing as a witness. Her delegation fully supported the Internal Justice Council's recommendation to establish an explicit system-wide

policy to ensure that both parties and witnesses appearing before the Dispute and Appeals Tribunals were protected from retaliation.

66. Her delegation wished to thank the Secretary-General for his efforts to collect information regarding the remedies currently available to non-staff personnel. Such personnel made up almost half of the Organization's workforce and the proportion was increasing. Many of them performed the same functions as staff over prolonged periods. Such persons must have access to a remedy to settle work-related disputes, particularly as, owing to the Organization's immunity, they generally could not seek remedies from the domestic courts in their place of employment. While consultants and individual contractors generally had recourse to arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law, there were significant obstacles to arbitration. As noted in the report of the Interim Independent Assessment Panel (A/71/62/Rev.1), the arbitration clause in the contracts of many independent contractors acted as a deterrent because the current procedure was both too complex and too costly. Moreover, some non-staff personnel, including interns and volunteers, had access only to non-judicial modes of dispute resolution, such as those offered by the Management Evaluation Unit and the Office of the United Nations Ombudsperson and Mediation Services, and even that access was limited owing to resource constraints.

67. It was clear from the annex to the Secretary-General's report (A/72/204) that the internal justice system was fragmented, and that different standards, procedures and practices were in place across the system. Now was the time to address those problems and to consider a simplified and more user-friendly dispute resolution procedure for non-staff personnel. Her delegation was convinced that it would be possible to design a procedure that was cost-effective and in line with the long-term interests of the Organization. It recommended that the Secretary-General should present possible options in his next report, bearing in mind the best practices and potential gaps identified in annex II of his report, as well as the findings of previous reports on the matter, the recommendations of the Internal Justice Council and the experiences of other United Nations bodies.

68. **Ms. Rivero Obregon** (Mexico) said that the debate on the administration of justice at the United Nations should be guided by the principles of legality and due process, independence, transparency, professionalism and decentralization. Her delegation recognized the efforts undertaken to enhance the internal justice system, the results of which were evident in the significant number of cases that had been resolved expeditiously and to the satisfaction of those involved. However, there continued to be marked differences in access to justice for staff and non-staff personnel, particularly local staff hired as consultants or contractors.

67. The Secretary-General's report (A/72/204) noted that many staff members remained unaware of the resources at their disposal to ensure that their rights were respected. That lack of awareness was even more pronounced in the case of non-staff personnel, who most commonly turned to the domestic courts in the country in which they worked. Annex II to the Secretary-General's report indicated that over a hundred complaints had been filed in national courts between 2009 and 2016. It was not clear, however, whether those cases had been definitively resolved or whether the decisions handed down had gone unenforced for reasons of immunity. Indeed, lack of effective internal remedies for non-staff personnel, particularly those working in regional offices of the Organization and its funds, programmes and specialized agencies, raised a number of issues related to jurisdiction and immunity. Her delegation welcomed the outreach activities undertaken to raise awareness of internal justice mechanisms among both staff and non-staff personnel. Those activities should be intensified, particularly among non-staff personnel, who made up 45 per cent of the Organization's total workforce and often carried out functions that were just as important as those carried out by staff members.

68. Her delegation underscored the need for an adequate and effective system to provide a timely solution to disputes between United Nations agencies and non-staff personnel. It noted that arbitration was the most common mechanism used to settle such disputes. However, it had not been able to identify any examples of regional offices of the Organization using arbitration to resolve matters involving non-staff personnel, especially in individual cases. Her delegation would welcome more information from the Secretariat in that regard.

69. Mexico applauded the good practices followed by some organizations, agencies and programmes of the United Nations system to address complaints from non-staff personnel. However, the growing number of such cases made it necessary to redouble efforts and develop innovative mechanisms for resolving existing complaints and preventing future ones, including through early and informal dispute resolution processes. Her delegation urged both the Secretariat and Member States to work to strengthen the administration of justice system in order to ensure the best possible working

conditions for all the individuals who served the Organization.

70. **Mr. García Reyes** (Guatemala) said that it was apparent from the Secretary-General's report that much had been achieved since 2009 and that the goals for the administration of justice system, as set out in General Assembly resolutions 61/261, 62/228 and 63/253, had been largely met. His delegation was convinced of the system's positive impact in improving labour relations between the Organization and its staff and thereby also enhancing staff performance. It supported the work of the Office of Staff Legal Assistance, which had played a key role in providing advice, representation and other legal services. Such assistance ensured that staff were represented and could participate on an equal footing in legal proceedings; it also helped to ensure due process. His delegation also took note of the Office's visits to the five duty stations, which had afforded a valuable opportunity to inform staff, staff associations and managers about the internal justice system, including the Office's role.

71. The Internal Justice Council continued to play an important role in ensuring independence, professionalism and accountability in the internal justice system, and his delegation encouraged it to continue to provide its views on the implementation of the system, within the scope of its mandate as set out in General Assembly resolution 62/228. The Sixth Committee, too, had played an important role in making the administration of justice system operational by drafting the statutes, and the amendments thereto, of the Dispute Tribunal and the Appeals Tribunal. His delegation stood ready to contribute its legal expertise with regard to all outstanding issues, such as those relating to the independent evaluation of the system, access to the justice system for persons with disabilities, gender equality and alternative dispute resolution measures. It recognized the value of the work of the Office of the Ombudsman and Mediation Services and the informal justice system in avoiding excessive litigation.

72. His delegation considered that the proposals and recommendations put forward by the Secretary-General in his report would enhance the effectiveness of the administration of justice at the United Nations; it would therefore continue working constructively with other delegations to that end. Continued coordination with colleagues in the Fifth Committee in those efforts would be important in order to ensure an appropriate division of labour.

73. **Ms. Pierce** (United States of America) said that the Secretary-General's bulletin (ST/SGB/2017/2) on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations represented a welcome improvement with regard to accountability. However, as indicated in the report of the Internal Justice Council (A/72/210), there was still substantial fear of retaliation among staff; the issue might therefore merit further exploration, bearing in mind that retaliation could manifest itself in many, and often subtle, ways. Her delegation would welcome more information from the Secretary-General about the system of referrals for accountability in the light of the Internal Justice Council's recommendations thereon. She noted in that regard that there had been no findings during the reporting period on the accountability of managers.

74. Her delegation was pleased to note that reviews of administrative decisions by the Management Evaluation Unit appeared to have resulted in a decrease in the amount of litigation pursued before the Dispute Tribunal and the Appeals Tribunal. The Office of the United Nations Ombudsman and Mediation Services had also made a significant contribution to the prevention and the informal resolution of disputes. In addition, the Investigations Division of the Office of Internal Oversight Services had taken steps to further reduce the average length of investigations. Her delegation agreed that informal resolution of disputes as early as possible should be encouraged. Care should be taken to ensure that requests for deadline extensions were not abused, as deadlines existed to ensure prompt resolution of disputes.

75. Her delegation appreciated the efforts made to improve transparency, including through outreach missions by the Office of Staff Legal Assistance and the United Nations Dispute Tribunal registries to help inform staff and managers about the internal justice system. Consideration should be given to what additional practical steps could be taken to enhance knowledge and understanding of the system, in particular regarding the availability of staff legal assistance. Her delegation welcomed the efforts of the Office of Human Resources and Management to harmonize and consolidate rules, regulations and administrative issuances with a view to reducing redundancies, eliminating contradictions and enhancing transparency. It also supported the Internal Justice Council's recommendation regarding enhancing staff access to documentation and information; in particular, where feasible, the Management Evaluation Unit should provide staff complainants with documents and other information relied upon by the Unit in deciding to sustain the decisions of line managers.

The meeting rose at 5.40 p.m.